United Nations S/2016/70

Security Council

Distr.: General
22 January 2016

Original: English

Letter dated 22 January 2016 from the Panel of Experts on South Sudan established pursuant to Security Council resolution 2206 (2015) addressed to the President of the Security Council

The members of the Panel of Experts on South Sudan established pursuant to Security Council resolution 2206 (2015) have the honour to transmit herewith, in accordance with paragraph 18 (d) of the resolution, the final report on their work.

The report was provided to the Security Council Committee established pursuant to resolution 2206 (2015) concerning South Sudan on 24 December 2015 and was considered by the Committee on 14 January 2016.

The Panel would appreciate it if the present letter and the report were brought to the attention of the members of the Security Council and issued as a document of the Council.

(*Signed*) Payton **Knopf**
Coordinator
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Final report of the Panel of Experts on South Sudan established pursuant to Security Council resolution 2206 (2015)

Summary

The civil war in South Sudan, which began as a political conflict between elites, has evolved over the past two years into a tribal war, reigniting historic grievances and encouraging military opportunism and revenge. The war is now perceived by many South Sudanese as a zero-sum struggle where the exclusion of competing tribes from political power and the monopolization of resources for personal gain have become the principal aims of the belligerents.

The President, Salva Kiir, and a narrow circle of senior individuals in the military and security services, including the Sudan People's Liberation Army (SPLA) Chief of General Staff, Paul Malong, and the Director General of the National Security Service's Internal Security Bureau, Akol Koor, are waging an aggressive war involving the targeting of civilians and extensive destruction of communities. Meanwhile, the leader of the Sudan People's Liberation Movement/Army in Opposition (SPLM/A in Opposition), Riek Machar, continues to seek funding and weapons to prosecute the war and to further his personal political ambitions at the expense of peace.

The Agreement on the Resolution of the Conflict in the Republic of South Sudan, which the Government and SPLM/A in Opposition signed in August 2015, has failed to result in a meaningful reduction of violence. As at the time of submission of the present report, in mid-December 2015, both parties were consistently violating the "permanent ceasefire" set out in the peace agreement, with particularly high levels of violence in Unity and Western Equatoria States. Civilians continue to be targeted because of their tribal affiliation. Progress towards the establishment of the Transitional Government of National Unity envisaged in the agreement has been minimal.

The relentless war has caused an ever-worsening humanitarian catastrophe. More than 2.3 million people have been displaced since December 2013, and the most recent available data indicate that 3.9 million people are facing severe food insecurity, an increase of 80 per cent over a 12-month period. Obstruction of humanitarian access is also widespread, with parts of Unity, Upper Nile and Western Equatoria States, among others, entirely blocked to humanitarian relief.

The humanitarian situation in Unity State in particular reflects the devastating results of the Government's systematic attacks against its own citizens in order to deny the opposition a support base, resulting in egregious human rights abuses, including forced disappearances, extrajudicial killings and conflict-related sexual violence, massive population displacements, the destruction of livelihoods and food crops and the raiding of cattle.

The security and humanitarian situation in the greater Equatoria region, in particular Western Equatoria State, has also deteriorated significantly following initial clashes in May and June 2015; tens of thousands have been displaced as a result of the violence.

In Upper Nile State, the period between April and July 2015 was marked by a surge in fighting. While SPLA regained control of the state capital in July, the current period of lower-scale fighting is tenuous, and grievances between communities or tensions inside SPLA could lead to a return to large-scale conflict at any time.

The National Security Service and SPLA Military Intelligence have been involved in the arbitrary arrest and detention of individuals suspected of supporting the opposition. Initially, most of those arrested or detained were Nuer. In recent months, however, Equatorians have increasingly become targets as political opposition against the Government has grown in the greater Equatoria region.

United Nations Mission in South Sudan (UNMISS) personnel are regularly attacked, harassed, detained, intimidated and threatened. Since the adoption of resolution 2206 (2015) on 3 March, the Government has committed at least 450 violations of the status-of-forces agreement, including assaults against United Nations personnel and restrictions on the movement of peacekeeping patrols and other UNMISS operations. The opposition and other anti-government groups have committed several dozen more similar acts. As at the time of writing, 43 humanitarian workers had been killed since the war began, in December 2013.

Both sides have continued to acquire arms and military equipment, even after the signing of the peace agreement in August and in the face of considerable economic stress. The Government has at least three operational Mi-24 helicopters, procured in 2014 at a total cost of nearly $43 million; they have been vital in providing an important advantage in military operations, have facilitated the expansion of the war and have emboldened those in the Government who are seeking a military solution to the conflict at the expense of the peace process. As at mid-September 2015, the Ministry of Defence and Veterans' Affairs was requesting final payment from the Ministry of Finance and Economic Planning for four additional attack helicopters at a total cost in excess of $35 million and was actively pressing the Ministry for the payment of at least two, and likely three, other contracts for other military materiel and related equipment, totalling some $50 million.

Through the Office of its Chair, SPLM/A in Opposition has also continuously sought to procure and obtain arms from numerous sources, albeit with comparatively limited success. The Panel has, however, confirmed that SPLM/A in Opposition has received ammunition and, to a lesser extent, arms, as well as other items such as uniforms, from the Sudan.

To supply clear and convincing evidence relevant to the designation of individuals engaged in actions or policies threatening the peace, security and stability of South Sudan, consistent with resolution 2206 (2015), the Panel has provided a summary of its investigations into the command responsibility within the belligerent parties to the war, details of the actions and policies resulting from command decisions and a description of the linkage to the criteria for sanctions designation established in the resolution.

The Panel has determined, on the basis of a preponderance of evidence, that both Kiir and Machar maintain command responsibility for their respective forces and that, since both the outbreak of the war, in December 2013, and the subsequent adoption of resolution 2206 (2015), both sides have consistently engaged in actions and policies meeting all eight criteria described in the resolution as grounds for the imposition of targeted sanctions. The Panel has further determined, on the basis of multiple, independent sources with first-hand knowledge, that there is clear and convincing evidence that most of the acts of violence committed during the war, including the targeting of civilians and violations of international humanitarian law and international human rights law, have been directed by or undertaken with the knowledge of senior individuals at the highest levels of the Government and within the opposition.

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I. Background

A. Mandate and appointment

1. By its resolution 2206 (2015), the Security Council imposed a sanctions regime targeting individuals and entities contributing to the conflict in South Sudan and established a sanctions committee (Security Council Committee established pursuant to resolution 2206 (2015) concerning South Sudan). The Committee designated six individuals for targeted sanctions on 1 July 2015.

2. In establishing the sanctions regime, the Security Council decided that the sanctions measures, consisting of a travel ban and an asset freeze, would apply to individuals and/or entities designated by the Committee as responsible for or complicit in, or having engaged in, directly or indirectly, actions or policies threatening the peace, security or stability of South Sudan.

3. The Security Council also established a panel of experts (Panel of Experts on South Sudan) to provide information and analysis regarding the implementation of the resolution. This includes information relevant to potential designations and information regarding the supply, sale or transfer of arms and related materiel and related military or other assistance, including through illicit trafficking networks, to individuals and entities undermining political processes or violating international human rights law or international humanitarian law.

4. On 27 April, the Secretary-General, in consultation with the Committee, appointed the five members of the Panel (see S/2015/287): a natural resources and finance expert (Andrews Atta-Asamoah), a regional affairs expert (Payton Knopf), a humanitarian affairs expert (Anna Oosterlinck), an arms expert (Lucas van de Vondervoort) and an expert on armed groups (Vladimir Zhagora). The Panel began its work in the last week of May. Klem Ryan subsequently replaced Mr. Zhagora as the armed groups expert, beginning work with the Panel on 1 October (see S/2015/631).

5. The Panel has maintained a more or less consistent presence in South Sudan and the region and has engaged on a regular and sustained basis with the widest range of stakeholders involved in or affected by the conflict, including senior leaders of the Government of South Sudan, including the Sudan People's Liberation Army (SPLA); the leadership of the Sudan People's Liberation Movement/Army in Opposition (SPLM/A in Opposition); the G-10/"former detainees";[1] Governments of countries in the region, including, in particular, those of Ethiopia, Kenya, the Sudan and Uganda; displaced persons, including those in United Nations sites for the protection of civilians in South Sudan; civil society and community representatives; tribal leaders; regional organizations, including the African Union Commission and the Intergovernmental Authority on Development (IGAD); the leadership of the United Nations Mission in South Sudan (UNMISS); the Office of the Special Envoy of the Secretary-General for the Sudan and South Sudan; United Nations humanitarian agencies; and international and national humanitarian and other non-governmental organizations.

[1] The G-10/"former detainees" are senior government officials arrested by the Government in connection with the events in Juba on 15 December 2013 and subsequently released through the intervention of the President of Kenya. They are Deng Alor, Pagan Amun, Oyay Deng, Cirino Hiteng, John Luk Jok, Kosti Manibe, Gier Chuang Aluang, Madut Biar, Chol Tong Mayay and Majak D'Agoot.

B. Methodology

6. While established by the Security Council, the Panel is an independent body that operates in an objective, fact-based manner and safeguards its work against any effort to undermine its impartiality or create a perception of bias. The full Panel approved the text, conclusions and recommendations contained herein on the basis of consensus.

7. The Panel has been fully committed to ensuring compliance with the standards recommended by the Informal Working Group of the Security Council on General Issues of Sanctions in its report of December 2006 (S/2006/997). Those standards call for reliance on verified, genuine documents, concrete evidence and on-site observations by experts, including photographs wherever possible. The Panel has corroborated all information contained in this report using multiple, independent sources to appropriately meet the highest evidentiary standard, placing a higher value on statements by principal actors and first-hand witnesses to events.

8. The Panel has conducted its work with the greatest transparency possible while maintaining, when requested or when significant safety concerns exist, the confidentiality of its sources. When a source is described as "confidential" or is not named herein, the Panel has determined that disclosing the source's identity would present a credible threat to his or her safety. When a confidential military source is referred to herein as a "senior" officer or commander in SPLA or SPLM/A in Opposition, the source holds a rank between lieutenant colonel and brigadier general. When a confidential military source is referred to as a "high-ranking" officer or commander in SPLA or SPLM/A in Opposition, the source holds a rank of major general or above. A document is described as confidential when its disclosure could compromise the safety of the source; these confidential documents are on file with the Secretariat and are available for viewing by the States members of the Committee.

9. To gather, examine and analyse information regarding the supply, sale or transfer of arms and related materiel, as mandated in resolution 2206 (2015), the Panel has used a combination of first-hand inspections of arms and equipment, photographs, other visual evidence, assessments of documentation and numerous stakeholder interviews. In the absence of an arms embargo, formal inspections of stockpiles were not possible.

10. The Panel is committed to the highest degree of fairness and has given relevant parties the opportunity, where appropriate and possible, to review and respond to, within a specific period, any information in its report citing those parties. The Panel provided the Government and SPLM/A in Opposition with a two-week period, consistent with the practice of other expert panels, to reply to the Panel's main findings herein. SPLM/A in Opposition provided a written response one day after the expiration of the two-week period, which the Panel subsequently circulated to the Committee (see annex VII).

C. Cooperation with international organizations and other stakeholders

11. While it operates independently of United Nations agencies and institutions, the Panel nonetheless expresses its sincere gratitude to the leadership and personnel of UNMISS and the Office of the Special Envoy of the Secretary-General for the Sudan and South Sudan, together with other United Nations staff in Addis Ababa, Kampala, Khartoum and Nairobi, for their invaluable support.

12. As at mid-December 2015, the Panel had sent 62 items of official correspondence to 34 States, organizations and other entities and had received 33 replies providing the information requested (see annex I).

II. Evolution of the conflict

13. As the Panel outlined in its interim report (S/2015/656), the war in South Sudan has resulted in the systemic breakdown of South Sudanese society, reigniting historic grievances, encouraging military opportunism and revenge and exacerbating inter-tribal and intra-tribal rivalries throughout the country. What began as a political conflict between elites that exploited tribal tensions has evolved in the past 10 months into a zero-sum struggle where the exclusion of competing tribal groups from political power has become a principal aim of many protagonists. The conflict is therefore not a simple, binary competition between the Government and SPLM/A in Opposition and their respective tribal bases, but a multifaceted war where allegiances shift rapidly depending on access to resources, unaddressed grievances and the opportunity for individual politicians and military commanders to exploit the situation to press for military and political advantage.

14. Notwithstanding the signing of the Agreement on the Resolution of the Conflict in the Republic of South Sudan by the Government and SPLM/A in Opposition in August, the war continues to pose a significant threat to regional peace and security. Since the beginning of the war, 1.66 million people have been internally displaced, with the vast majority sheltering outside UNMISS sites for the protection of civilians. A total of 178,906 people were residing in the sites as at the beginning of November (see S/2015/902). More than 646,000 people have taken refuge in neighbouring States, an increase of 124,000 since late March 2015.[2] In September, 3.9 million people (more than 30 per cent of the population) were facing severe food insecurity, an increase of 80 per cent over a 12-month period.[3] In addition, in November, 40,000 people in Unity State were considered to be at risk of famine if urgent humanitarian assistance was not provided in the most affected areas by December.[4]

15. In contrast to the first period of the war, the conflict is no longer limited to the initial combat theatres of Unity, Upper Nile and Jonglei States, to towns or to fighting between government and opposition forces. Most of the acts of violence committed since May 2015 have in fact been perpetrated at the local and communal levels against civilians by government forces or government-affiliated armed groups or, less frequently, by the opposition.

A. Tribal fissures

16. The war and deepening tribal fissures have had profound consequences beyond the widespread animosity among many Dinka towards the former Vice-President

[2] See http://data.unhcr.org/SouthSudan/regional.php.

[3] See Integrated Food Security Phase Classification, South Sudan, "September 2015 food security and nutrition analysis: key messages". Available from www.ipcinfo.org/fileadmin/user_upload/ipcinfo/docs/1_IPC%20South%20Sudan%20-%20September%202015%20-FINAL.pdf.

[4] See "Central and southern Unity verification mission report: final report", Integrated Food Security Phase Classification, 20 November 2015. Available from http://reliefweb.int/sites reliefweb.int/files/resources/Reconnaissance%20Mission%20Report_Central%20and%20 Southern%20Unity_FINAL.pdf.

and leader of SPLM/A in Opposition, Riek Machar, and the equally toxic view of the President, Salva Kiir, among the Nuer, the former because of mistrust stretching back to Machar's responsibility for a massacre of an estimated 5,000 primarily Dinka civilians in Bor, Jonglei State, in 1991 during a previous split within SPLM/A, and the latter because of the perception that Kiir ordered the murder of Nuer in Juba in the early days of the conflict.[5]

17. The leadership of SPLA, SPLA Military Intelligence, the National Security Service and other security organs is increasingly dominated by members of the Dinka tribe. Over the course of the war, the members of a self-identified tribal group, the Jieng (Dinka) Council of Elders, have become influential, unofficial advisers to Kiir.[6] Concurrently, the Government has forged alliances to exploit differences within other tribal groups, notably the Nuer (see sect. III). Many Equatorians feel more and more betrayed by a Government that they see as working only on behalf of the interests of the Dinka community.

18. The Dinka are, however, also suffering severely from the war, primarily owing to the interrelated economic and humanitarian crises in the country and the fact that large numbers of young Dinka men have been mobilized by the Government to fight. An estimated 70 per cent of the population in Northern Bahr el Ghazal, the home state of the SPLA Chief of General Staff, Paul Malong, is facing severe food insecurity,[7] and the state has lost a large part of its population to fighting.[8]

B. Narrowing freedoms

19. As the war enters its third year and the functioning of the Government is entirely oriented towards its prosecution, the environment for public debate has narrowed.

20. The media have repeatedly faced intimidation, harassment and censorship, primarily from the State security services.[9] In the past year, at least six journalists have been killed, a number of others have been arrested and detained and the National Security Service has forced the closure of several media outlets, including

[5] In its final report, the African Union Commission of Inquiry on South Sudan asserted that the killings in Juba in December 2013, which the Commission determined constituted war crimes and some might amount to crimes against humanity, were committed pursuant to or in furtherance of a State policy (para. 812). See www.peaceau.org/uploads/auciss.final.report.pdf.

[6] Panel assessment, based on multiple interviews in Juba, including meetings with the Jieng Council of Elders in June and September.

[7] A total of 370,000 people are classified to be in "crisis" and 135,000 in "emergency" (Integrated Food Security Phase Classification 3 and 4, respectively), of an estimated total population of 721,000, meaning that the state is ranked fourth (immediately after the three greater Upper Nile states) in all of South Sudan in terms of food insecurity. See Integrated Food Security Phase Classification, South Sudan, "September 2015 food security and nutrition analysis: key messages", available from www.ipcinfo.org/fileadmin/user_upload/ipcinfo/docs/I_IPC%20South%20Sudan%20-%20September%202015%20-FINAL.pdf.

[8] Interviews with UNMISS and United Nations humanitarian agency staff in Aweil and with a senior local government official (August).

[9] At the beginning of December, the European Union and Canada issued a st .tement in which they expressed grave concern about increasing violations of media freedoms and arbitrary arrests, largely on the part of the National Security Service. See "European Union accuses South Sudan security service of violating media freedoms", Radio Tamazuj, 10 December 2015, available from https://radiotamazuj.org/en/article/eu-accuses-south-sudan-security-service-violating-media-freedoms.

the *Nation Mirror*, *The Citizen* and *Al Rai*, and temporarily closed the *Juba Monitor*. At an event marking World Press Freedom Day in May, the Minister of Information and Broadcasting (and deputy negotiator for the peace process), Michael Makuei, was widely quoted in the media as saying "up to now, we have not taken any journalist to court but we will do so".[10] He has also threatened to close down the UNMISS radio station, Radio Miraya.[11]

21. On 16 August 2015, Kiir was quoted by media gathered at the airport in Juba as he was departing for peace talks in Ethiopia as saying "freedom of press does not mean that you work against your country. And if anybody among them [journalists] does not know this country has killed people, we will demonstrate it one day on them". Four days later, a journalist, Peter Moi, was killed in Juba; the perpetrators remain unidentified. On 22 August, the Office of the President issued a statement on the remarks, stating: "This was just a reminder to South Sudanese journalists, not a threat ... Nothing shall harm a journalist when he/she is going about his/her journalistic profession."[12]

22. After the Director of the Centre for Peace and Development Studies at the University of Juba, Luka Biong Deng, organized a forum on 8 October 2015 for the public discussion of the controversial decree issued by Kiir to increase the number of states from 10 to 28 (see sect. VI), the Government ordered his dismissal and prohibited future public lectures under the auspices of the Centre. At the event, both government officials and other proponents of the decree, as well as its critics, had been provided with a platform to express their views. Deng has since left the country.[13] The Dean of Applied and Industrial Sciences at the University of Juba was also reportedly arrested by the National Security Service on 12 December.[14] The Panel has received numerous other first-hand reports of the arbitrary arrest and detention of political activists by the National Security Service and SPLA Military Intelligence, which are detailed in section VII.

23. On 30 November, the Chairs of five committees in the National Legislative Assembly and two of their deputies were dismissed from their posts for boycotting the amendment incorporating the 28-state order into the Constitution. Six of the seven parliamentarians are from the greater Equatoria region.[15]

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[10] See "South Sudan official at press freedom event lashes out at journalists", Radio Tamazuj, 4 May 2015, available from https://radiotamazuj.org/en/article/south-sudan-official-press-freedom-event-lashes-out-journalists.

[11] On 16 February, Radio Miraya broadcast an interview with the widow of iconic independence leader John Garang, Rebecca Nyandeng, and, later that day, Makuei threatened to close it down.

[12] See "Kiir threatens to kill journalists working against the country", Radio Tamazuj, 17 August 2015, available from https://radiotamazuj.org/en/article/kiir-threatens-kill-journalists-working-against-country; Philip Aleu, "South Sudan Government dials back Kiir threat against journalists", Voice of America, 24 August 2015, available from www.voanews.com/content/south-sudan-media-journalism-threat-freedom-of-speech-peace-deal/2930469.html; "South Sudan reporter killed days after President's threat", Al-Jazeera, 20 August 2015, available from www.aljazeera.com/news/2015/08/sudan-reporter-killed-days-president-threat-150820141803243.html.

[13] Interviews with two individuals with first-hand knowledge of events in October and December.

[14] See "Juba University dean detained by National Security", Radio Tamazuj, 12 December 2015. Available from https://radiotamazuj.org/en/article/juba-university-dean-detained-national-security.

[15] See "Five parliament committee Chairs dismissed for rejecting Kiir's 28 states", Radio Tamazuj, 1 December 2015. Available from https://radiotamazuj.org/en/article/5-parliament-committee-chairs-dismissed-rejecting-kiirs-28-states.

C. Agreement on the Resolution of the Conflict in the Republic of South Sudan

24. On 17 August 2015, the SPLM/A in Opposition leader, Machar, and Pagan Amum, on behalf of the G-10/"former detainees", signed the Agreement on the Resolution of the Conflict in the Republic of South Sudan, mediated by IGAD. Kiir signed it on 26 August, under significant international pressure. As noted in section VI, the peace agreement has failed to result in a meaningful reduction of violence, and progress towards the establishment of the Transitional Government of National Unity has been minimal, largely owing to a lack of political will by both parties.

D. Economic crisis

25. The prosecution of the war, the poor management of the country's fiscal resources and a drastic reduction in the Government's main source of revenue — oil sales[16] — have resulted in a catastrophic economic situation. The Government's average monthly budget shortfall, at the time of submission of the present report, was at least $220 million.[17] The Government attempts to meet its budget commitments, including payroll, through excessive borrowing from the central bank, which has resulted in domestic debt of more than $4 billion.[18] External debt continues to grow through a $100 million letters-of-credit facility from the Qatar National Bank and forward sales of oil. The Panel received credible information, from multiple sources, regarding loans extended to the Government by several foreign oil companies. The Panel's investigations into the reports are continuing.

26. As detailed in the Panel's interim report, the Government continues to prioritize allocation of resources to the defence and security sectors (see sect. IV) and to the service of tribal patronage networks[19] at the expense of other sectors of the economy. Management of the limited resources is concentrated around the Office of the President, the central bank and the Ministry of Petroleum and Mining, and payments are often authorized directly from the central bank without passing

[16] The revenue generated by oil has declined, both as a direct result of the war and of the global fall in oil prices.

[17] The figure of $220 million is based on the official exchange rate, which was fixed at 2.95 South Sudanese pounds to the dollar until mid-December, when the central bank decided to float the currency. Interviews with an SPLM official, Juba-based development worker and economist in Juba in November. See also page 21 of the quarterly macroeconomic update, covering the fourth quarter of the financial year 2014/15, prepared by the Ministry of Finance and Economic Planning (November 2015), which presents the situation as it was in July 2015. By November, the economic situation had deteriorated further.

[18] As at March 2015, total government borrowing from the central bank was estimated at $2.2 billion. Based on confidential interviews with government officials and South Sudanese analysts in the economic and financial sector in Juba in November. See also the reporting figures of the Ministry of Finance and Economic Planning as at July 2015 in the quarterly macroeconomic update, covering the fourth quarter of the financial year 2014/15, prepared by the Ministry (November 2015), pp. 22-24.

[19] This refers to a network of largely Dinka elites who benefit enormously from their association with and loyalty to the Kiir regime and in return remain loyal to the regime's policies.

through the Ministry of Finance and Economic Planning, which has enabled corruption.[20]

III. Propagation and conduct of the war

27. As indicated in the Panel's interim report, and to provide the Committee with clear and convincing evidence relevant to the designation of individuals engaged in actions or policies threatening the peace, security and stability of South Sudan, in accordance with the Security Council's sanctions criteria set out in resolution 2206 (2015), the Panel has investigated the command responsibility among the belligerent parties. Its analysis of command responsibility and the overall conduct of the war is based on testimony by officials and senior military commanders affiliated with the Government and with SPLM/A in Opposition, as well as other sources.

28. As described below, the Panel has determined, on the basis of a preponderance of evidence, that both Kiir and Machar maintain command responsibility for their respective forces. The Panel presents evidence-based assessments of the conduct of the war specifically in Unity, Upper Nile and Central and Western Equatoria States, which it selected as the best examples of the conduct of the war in general, and command responsibility in particular, since the adoption of resolution 2206 (2015).

A. Definition of command responsibility

29. In attributing command responsibility for actions or policies meeting the criteria for the imposition of sanctions described by the Security Council in paragraphs 6 and 7 of its resolution 2206 (2015), the Panel has followed the understanding of command responsibility outlined in articles 86 and 87 of Additional Protocol I to the Geneva Conventions of 1949, to which South Sudan acceded in July 2012.[21] Article 86 states that, among other things, parties to the Conventions are required to "repress grave breaches" of the Conventions. Furthermore, according to article 86:

> The fact that a breach of the Conventions or of this Protocol was committed by a subordinate does not absolve his superiors from penal or disciplinary responsibility, as the case may be, if they knew, or had information which should have enabled them to conclude in the circumstances at the time, that he was committing or was going to commit such a breach and if they did not take all feasible measures within their power to prevent or repress the breach.

30. The essential elements for command responsibility therefore require that there was a relationship, even if de facto, between a superior and a subordinate linking

[20] Interview with multiple sources, including a former official of the Ministry of Finance and Economic Planning, Addis Ababa, August. See also "War economy: Kiir's office spends more than budget of an entire state", Radio Tamazuj, 28 March 2015, available from https://radiotamazuj.org/en/article/war-economy-kiirs-office-spends-more-budget-entire-state; "Investigation into $800 million AWOL at the Presidency", Indian Ocean Newsletter, 24 July 2015, available from www.africaintelligence.com/ION/politics-power/2015/07/24/investigation-into-dollars800%C2%A0million-awol-at-the-presidency,108085760-ART.

[21] See International Committee of the Red Cross (ICRC), "South Sudan: world's newest country signs up to the Geneva Conventions", 19 July 2012. Available from www.icrc.org/eng/resources/documents/news-release/2012/south-sudan-news-2012-07-09.htm.

those who committed the breach to the commander at the time of the commission of the breach; that the superior had knowledge or had reason to know that his subordinates had committed or were likely to commit the breach; and that there was a failure on the part of the superior to take all necessary and reasonable measures to prevent or to punish the breach.[22]

B. Command responsibility of government forces

31. As both the Head of State and the Commander-in-Chief of SPLA, Kiir holds the active military rank of general and is formally the highest military commander in the country, with the SPLA Chief of General Staff, Paul Malong, the Minister of Defence and Veterans' Affairs, Kuol Manyang, and the Minister of National Security, Obuto Mamur (who officially resides in the Presidency), reporting directly to him.

32. Kiir, not the chief of general staff or the minister of defence and veterans' affairs, issues decrees to appoint and promote senior military officers, which he did with the dismissal of James Hoth Mai as chief of general staff in March 2014 and the appointment of Paul Malong as his successor. On 23 September 2015, Kiir appointed an ex-South Sudan Liberation Army (SSLA) officer, Lieutenant General Bapiny Monytuil to the position of SPLA deputy chief of general staff for moral orientation and James Gai Yoach to the rank of lieutenant general, without a designated role. He also appointed David Yau Yau and two of his deputies as lieutenant generals on 5 November 2015.[23]

33. There is clear and convincing evidence, described below, that Kiir also effectively holds de facto command responsibility over the diverse range of armed groups used by the Government to wage the war in various theatres.[24] The groups, in particular those operating in Unity and Upper Nile States and Central and Western Equatoria States, are an amalgamation of military "regulars", national security officers, militiamen and tribal "youth".[25] The leadership of those forces on the ground

[22] See "Command responsibility and failure to act", Advisory Service on International Humanitarian Law (ICRC, May 2014). Available from www.icrc.org/eng/assets/files/2014/command-responsibility-icrc-eng.pdf.

[23] See "South Sudan President assigns top allied military commander", *Sudan Tribune*, 27 September 2015, available from www.sudantribune.com/spip.php?article56526.

[24] In its resolution 2206 (2015), the Security Council expressed its intention to impose any sanctions that might be appropriate so as to encourage the government and opposition forces to form a transitional government of national unity, take effective and comprehensive steps to cause forces under direct or indirect control to cease military operations, acts of violence and violations of human rights, and enable full access for humanitarian assistance. Mention is made in the resolution of both armed groups and national security forces as having been involved in acts contravening international humanitarian law and other violations. For the purpose of its mandate, the Panel considers armed groups to include all government armed forces, associated militias, tribal "youth", armed opposition forces and militias, in addition to foreign forces involved in armed activities in South Sudan.

[25] Armed youth are a frequent component of military operations in South Sudan for both the Government and the opposition. The groups, usually based on tribal identity, are primarily drawn from specific geographical areas (e.g. the Mayom youth in Unity State comprise Bul Nuer men and boys) and comprise individuals ranging in age from young teenagers to adult men. Youth armed groups are frequently led and directed by local political and military figures, such as the county commissioners of Koch and Leer, and coordinate with other military elements to engage in attacks. Armed youth are also, in some instances, simultaneously members of organized security services, such as SPLA or the national police.

often varies, with local political and military leaders working in unison to bring together composite forces and resources for operations.[26] However, specialized operations, such as those involving attack helicopters, are under the direct control of SPLA headquarters and clearly coordinated with these groups.[27] During fighting, SPLA forces are frequently supplemented by National Security Service forces, often consisting of Dinka recruited from Warrap and Northern Bahr el Ghazal States, the home areas of Kiir and Paul Malong, respectively.[28]

34. Kiir and Paul Malong also recruited the militia known as the "Mathiang Anyoor" that, according to the African Union Commission of Inquiry on South Sudan,[29] was involved in many of the killings in Juba in 2013.[30] The militia was trained at Kiir's farm in Luri, Central Equatoria State, without the approval of James Hoth Mai.[31] The first four months of training of a subsequent batch of more than 3,000 National Security Service officers also took place partially in Luri before the trainees were moved to Mapel, Western Bahr el Ghazal State, where they were trained for four more months and graduated in May.[32]

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[26] The operational environment is complicated by the breakdown in the distinction between political and military leadership at the field level, with many county officials in conflict-affected states holding dual appointments and transitioning frequently between their civil and military functions. Furthermore, these local leaders have been significantly involved in the mobilization of local youth and militia elements, and the incorporation of those youth into the broader conflict between the Government and the opposition, further spreading the war to civilians in conflict-affected states. The environment thus often appears chaotic, with local rivalries, cattle-raiding and revenge attacks creating an almost perpetual state of violence in some counties, such as Koch and Leer in Unity State.

[27] Interviews with two high-ranking SPLA field commanders (subsequently referred to herein as E and F) during separate meetings in Upper Nile State and Juba in October and November, a high-ranking SPLA officer (subsequently referred to as A) at SPLA headquarters in Juba in August and former politician P in Juba in November.

[28] Interviews with former politician P in Juba (November), officials of the IGAD Monitoring and Verification Mechanism in Malakal (September), high-ranking SPLA officer A in Juba (September), a former National Security Service trainee in Pagak (November) and an Internet-based interview with international expert on South Sudan M (October). Since December 2013, there has been large-scale government recruitment throughout South Sudan, but predominantly in Dinka-populated areas. Youth from Northern Bahr el Ghazal and Warrap States have been recruited in the largest numbers, and a significant number of them were trained and equipped under the auspices of the National Security Service. South Sudanese usually describe these as "new" Mathiang Anyoor.

[29] See www.peaceau.org/uploads/auciss.final.report.pdf.

[30] See the final report of the African Union Commission of Inquiry on South Sudan, paras. 53-54.

[31] See ibid., paras. 124 and 451. See also "Generals say Juba massacres done by private militia, not SPLA", Radio Tamazuj, available from https://radiotamazuj.org/en/article/generals-say-juba-massacres-done-private-militia-not-spla, in which a number of senior officials and former officials are quoted; and Panel interviews.

[32] See "South Sudan graduates over 3,000 national security officers", *Sudan Tribune*, 5 May 2015, available from www.sudantribune.com/spip.php?article54865. Corroborated by Panel interviews with one of the recruits in Pagak (November), civil society representative K in Nairobi (October) and high-ranking SPLA officer A in Juba (September).

Figure I
President addressing the nation, 16 December 2013

Source: Reuters.

35. The Panel has therefore determined, on the basis of multiple, independent sources with first-hand knowledge, that there is clear and convincing evidence, presented below, that most of the acts of violence committed during the war by the Government or by government-affiliated forces, including the targeting of civilians and violations of international humanitarian law and international human rights law, have been directed by or undertaken with the knowledge of senior individuals at the highest levels of the Government, including Kiir, Paul Malong and the Director General of the National Security Service's Internal Security Bureau, Akol Koor.

36. Military operations in the primary theatres of armed conflict show consistent coordination with SPLA headquarters on logistics and the integration of air assets and heavy weapons, including artillery, barges, tanks and helicopters, with local forces. The tactics employed during the operations vary by state, as described below, but coordination between local forces and national-level authorities is consistent. Two division commanders and a high-ranking field commander interviewed by the Panel repeatedly indicated that they followed operational orders from SPLA headquarters and that Kiir occasionally received briefings from operational commanders.[33]

37. Furthermore, at least three reports concerning serious violations of human rights are with the Office of the President, awaiting Kiir's action to hold to account alleged perpetrators under his command. They include a report by the national police into the killings in Juba in December 2013; a report of 15 March 2014 by the South Sudan Human Rights Commission that was made public but the recommendations of which were addressed to Kiir; and a report by Jonglei State

[33] Interview with Division III commander Santino Deng Wol in Wunjik (August), acting Division II commander Ruei Phuot in Malakal (September) and high-ranking SPLA field commander GG in South Sudan in September and October.

officials into the attack on the UNMISS site for the protection of civilians in April 2014.[34]

38. In addition, the former President of Nigeria, Olusegun Obasanjo, who chaired the African Union Commission of Inquiry on South Sudan, presented Kiir with a copy of the Commission's final report upon its completion in October 2014. The report was released publicly by the African Union in October 2015. The Commission concluded that war crimes and crimes against humanity:

> "were committed pursuant to or in furtherance of a State policy". Indeed, the method under which these crimes were committed proves the 'widespread or systematic nature' of the attacks. The evidence also shows that it was an organized military operation that could not have been successful without concerted efforts from various actors in the military and government circles. Therefore the element of the existence of a State policy can be deduced therefrom."[35]

39. This conclusion did not lead to any investigations or action against individuals specifically singled out in the report, such as the commander of the Presidential Guard, Marial Chanuong.[36]

C. Command responsibility of SPLM/A in Opposition

40. Notwithstanding the diverse grouping of opposition forces and the largely uncoordinated way in which they came together after the events in Juba in December 2013, Machar continues to affirm in public, and to the Panel directly, his leadership of SPLM/A in Opposition and operational command over its forces. As recently as November 2015, he convened a meeting of all senior opposition commanders and political leaders in Pagak, Upper Nile State (the SPLM/A in Opposition headquarters), during which senior commanders, including Lieutenant General Johnson Olony, who currently heads the largest operational fighting force of SPLM/A in Opposition, confirmed to the Panel that they received their orders from him. Machar is also recognized in the peace agreement as the Chair and Commander-in-Chief of SPLM/A in Opposition.[37]

41. In addition, the African Union Commission of Inquiry on South Sudan considered the issue of command responsibility for opposition forces and concluded in paragraphs 818 to 823 of its report that, on the basis of publicly available statements, meetings with Machar and witness reports, Machar maintained operational control of the opposition. The Panel found no evidence to contradict those assessments, nor any evidence that command responsibility had shifted since the completion of the Commission's report in October 2014.

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[34] For an UNMISS report, see https://unmiss.unmissions.org/Portals/unmiss/Human%20Rights%20Reports/UNMISS%20Conflict%20in%20South%20Sudan%20-%20A%20Human%20Rights%20Report.pdf. For the report of the South Sudan Human Rights Commission, see "Interim report on South Sudan internal conflict: 15 December 2013-15 March 2014", available from www.sudantribune.com/IMG/pdf/rreport_on_conflicts_in_south_sudan.pdf.

[35] See the final report of the African Union Commission of Inquiry on South Sudan, para. 812. See also paras. 806-812 and 1126-1131.

[36] The Committee designated Chanuong, among others, on 1 July.

[37] Interview with Olony in Pagak in November. Peter Gadet also confirmed in an interview with the Panel in Khartoum in October that, before his defection from SPLM/A in Opposition, he would take operational orders from Machar.

42. The Panel has therefore determined, on the basis of multiple, independent sources with first-hand knowledge, that there is clear and convincing evidence, presented below, that most of the acts of violence committed during the war by SPLM/A in Opposition, including violations of the ceasefire and violations of international human rights law and international humanitarian law, have been directed by or undertaken with the knowledge of senior individuals at the highest levels of SPLM/A in Opposition, including Machar.

43. SPLM/A in Opposition has nonetheless faced significant military challenges over the past year. The Government's offensive in Unity State, the opposition's severe logistical shortages (both detailed below) and the absence of both air and anti-air capability have led to a largely defensive posture in many locations. As with the Government, opposition forces are composites of regular force elements from SPLA and other security services coupled with tribal youth groups, including the "White Army" of primarily Lou Nuer, Gawaar Nuer and Jikany Nuer youth and other local defence militias.[38] The Gawaar Nuer and Jikany Nuer youth groups have increased in size as the result of (sometimes forced) recruitment drives.

44. The opposition has also suffered deep political disagreements that resulted in the withdrawal from active military operations of a group of senior commanders, led by General Peter Gadet. The main grievances of the group centre around the fact that the power-sharing formula put in place through the peace agreement of August 2015 restores the status quo ante, fails to address the underlying problems within SPLM and does not adequately provide for accountability for those responsible for the killing of Nuer civilians in Juba in December 2013. Senior Nuer commanders in SPLM/A in Opposition expressed similar sentiments concerning accountability during meetings with the Panel in Pagak, Upper Nile State, stressing that they were pro-peace but had signed the agreement largely because of pressure from the international community.

45. Defections from the Government to the opposition in April and October 2015 by largely Shilluk SPLA forces in Upper Nile State somewhat mitigated the withdrawal of Peter Gadet and led to the temporary seizure of Malakal by the opposition in May. Nevertheless, the opposition has still not been able to mount any sustained offensive in 2015 and, in December, was holding no major urban areas, factors that undoubtedly contributed to Machar's signing of the peace agreement in August.

D. Unity State

46. The conduct of the government offensive in Unity State, which began in April 2015 shortly after the adoption of resolution 2206 (2015) and was described in detail in the Panel's interim report, displays the features of command and control described above. The offensive was part of a larger strategy to drive out the opposition from key areas of the country through a three-pronged attack. Government forces from Bor, Jonglei State, moved east to take Akobo, the last remaining sizeable town under the control of SPLM/A in Opposition; forces from Malakal, Upper Nile State, moved east to take Pagak; and forces from Rubkona and Bentiu, Unity State, reinforced by

[38] On the composition of the White Army, see Brian Abeda, "Making sense of the White Army's return in South Sudan", Centre for Security Governance Paper, No. 1 (Ontario, Canada, February 2015). Available from www.ssrresourcecentre.org/wp-content/uploads/2015/02/CSG-Paper-1-Adeba-Feb-2015.pdf.

troops from Lakes State and Bor, moved into central and southern areas of Unity State, the Nuer heartland of the state.[39]

47. The Panel has assessed, on the basis of multiple, independent, first-hand accounts, including confidential interviews with several senior personnel in SPLA, that a group of senior security officials, including the Chief of General Staff, Paul Malong, the Deputy Chief of General Staff for Operations, Lieutenant General James Ajongo, the Deputy Chief of General Staff for Administration, Lieutenant General Malual Ayom, the Deputy Chief of General Staff for Logistics, Lieutenant General Malek Ruben, and the Director General of the Internal Security Bureau, Akol Koor, planned the offensive beginning in January 2015 and subsequently oversaw its execution from late April onwards, with ultimate command responsibility remaining with Paul Malong.[40]

48. For the Unity prong of the offensive, the government strategy relied heavily on the merging of SSLA, a predominantly Bul Nuer militia based in Mayom, Unity State, with the remnants of SPLA Division IV, which is headquartered in Rubkona, Unity State. Division IV operated under the command of SPLA Major General Thiab Gatluak Taitai, with operational leadership of the offensive largely delegated to former SSLA officers led by Major General Matthew Puljang.[41] The latter was aided by local government affiliates, including several county commissioners (John Bol Mayak (Mayom), Gordon Koang Biel (Koch), Kor Gatmai Garang (Mayendit) and Wai Yach Gatkouth (Leer)), supplemented by Justice and Equality Movement forces from Darfur, which maintain bases in Unity State.[42] An SPLA deputy chief of general staff told the Panel that SPLA considered the former SSLA to be fully integrated into its command structures, but the integration process had been rushed owing to the war and therefore the SSLA members had not undergone the required training in human rights and international humanitarian law. Nevertheless, SPLA headquarters proceeded to deploy those troops during the offensive, instead of deploying better-trained SPLA troops from other, then more stable locations.[43]

49. The Government had begun arming Bul Nuer youth early in 2015 to facilitate their participation in the offensive. Most Bul Nuer youth already had access to AK-pattern automatic rifles (which are prolific throughout the state), but ammunition was crucial to sustaining their operations. The Panel determined, on the basis of a preponderance of evidence and testimony from military sources, that ammunition was supplied to youth groups by SPLA headquarters specifically for the offensive, initially

[39] Panel interviews with two high-ranking SPLA officers A and B in Juba (August and October) and Internet-based interview with international researcher M in July.

[40] Panel official meeting with one of the individuals named HH (Juba, August); separate interviews with two high-ranking SPLA officers and one senior SPLA officer with first-hand knowledge based at SPLA headquarters in Juba (A, B, D) (August, September, November); Internet-based call with international researcher on South Sudan N (July); interview with civil society representative K in Nairobi (August).

[41] Interview with former Unity State local government official FF in Juba (October) and high-ranking SPLA officer E and senior SPLA officer D in Juba (November). See also Human Rights Watch, "They burned it all: destruction of villages, killings and sexual violence in Unity State South Sudan", 22 July 2015, available from www.hrw.org/report/2015/07/22/they-burned-it-all/destruction-villages-killings-and-sexual-violence-unity-state.

[42] Information provided by the Panel of Experts on the Sudan and corroborated by sources in Unity State. The Panel has also observed at first hand on a number of occasions the presence of members of the Justice and Equality Movement in Unity State.

[43] Panel official meeting with high-ranking SPLA officer HH (Juba, August).

through the Governor of Unity State, Joseph Monytuil (a Bul Nuer), and the Mayom County Commissioner, John Bol Mayak, and later through the Koch and Leer county commissioners when the Jagei Nuer attacked southern Unity State.[44]

50. All senior operational commanders are equipped by SPLA with satphones for coordination with headquarters. Three independent sources reported to the Panel that at least one meeting was held in Juba during the offensive between Joseph Monytuil, Matthew Puljang and Paul Malong.[45] Widespread destruction, targeting of civilians, large population displacement and numerous human rights abuses resulted from the offensive. Thousands of cattle were subsequently taken to Bentiu and Mayom.[46]

51. The Government's use of SSLA and Bul Nuer youth exploited intra-tribal enmities and historic divisions between the Bul Nuer and other Nuer tribes in Unity State, which are rooted in the tradition of cattle-raiding coupled with grievances dating from the intra-Nuer conflicts during the civil war within the Sudan. That legacy has been compounded by the decision of the Bul Nuer leaders to ally themselves with the Government and the resulting atrocities committed by both sides before the offensive. Numerous witnesses to the offensive and representatives of international organizations working in Unity State pointed to the widespread looting of cattle as having been licensed by the Government both to motivate the attackers and to deprive the opposition of resources.[47]

52. Following the destruction of much of the southern and central parts of the state, numerous media and humanitarian organizations, as well as UNMISS, published reports about the scale of the human rights violations that were perpetrated.[48] Some of the violations were detailed in the Panel's interim report. The Government has continued to employ the same tactics for operations in progress as at mid-December, resulting in the continuous targeting of civilians and violations of international human rights law and international humanitarian law described in section VII.[49]

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[44] Interviews with high-ranking SPLA field commander E in Juba (November), high-ranking SPLA officer B and senior SPLA officer D in Juba (September), journalist S with knowledge of the area in Juba (November) and a diplomat in Juba (November).

[45] Interview with high-ranking SPLA officer A in Juba (November) and two separate Internet-based interviews with international researchers M and N with knowledge of the area (July).

[46] The Panel viewed and photographed the government cattle camps in Bentiu and Rubkona.

[47] Interview with former Unity State local government official FF in Juba (October) and interviews with UNMISS personnel in Unity State (November).

[48] For some examples, see United Nations, "Flash human rights report on the escalation of fighting in Greater Upper Nile: April/May 2015, 29 June 2015", available from http://unmiss.unmissions.org; Human Security Baseline Assessment for Sudan and South Sudan, "The conflict in Unity State" (Geneva, Small Arms Survey, 3 July 2015), available from www.smallarmssurveysudan.org/facts-figures/south-sudan/conflict-of-2013-14/the-conflict-in-unity.html#c1690; Abu-Bakarr Jalloh, "South Sudan spokesman: army didn't commit atrocities", Deutsche Welle, 22 July 2015, available from www.dw.com/en/south-sudan-spokesman-army-didnt-commit-atrocities/a-18601282; Human Rights Watch, "They burned it all: destruction of villages, killings and sexual violence in Unity State South Sudan", July 2015, available from www.hrw.org/report/2015/07/22/they-burned-it-all/destruction-villages-killings-and-sexual-violence-unity-state.

[49] The Panel received reports from both SPLA and United Nations sources on 2 December that Paul Malong had restructured the SPLA command of Unity State, replacing the Division IV commander with Major General Stephan Buoy and establishing a new command chain with Major General Puljang reporting directly to Malong. Beginning with its first visit to South Sudan in June, the Panel requested a meeting with Malong and Puljang on several occasions through the Ministry of Foreign Affairs and the Panel's focal point in the Ministry of Defence but never received a reply.

53. The SPLA Deputy Chief of General Staff for Operations, James Ajongo, told the Panel in August that SPLA had established a commission to investigate allegations of human rights violations in Unity State, but that it could not begin its work in the absence of UNMISS representatives. When asked about the SPLA investigation in August, the UNMISS Human Rights Division told the Panel that the request had been referred to the Office of the United Nations High Commissioner for Human Rights. There was, however, no plan for UNMISS to participate in a joint investigation because there were concerns about the impartiality of a panel convened by SPLA and about the credibility of the SPLA investigation while the offensive was continuing. As at mid-December, the Panel was not aware of any further attempts by SPLA to investigate the reports, nor had any senior commander involved in the offensive been subject to disciplinary proceedings.

54. The government offensive, coupled with the limited resources of SPLM/A in Opposition, has largely placed the opposition on the defensive in Unity State. The Panel is not aware of any significant offensive operations by the opposition in the state since its interim report, with most reported opposition activities aimed at defending communities from attacks or recovering lost territory and cattle. The SPLM/A in Opposition forces in the state have, therefore, largely devolved into local defence collectives, utilizing the limited organized forces that remain in the state together with local armed youth.[50]

E. Upper Nile State

55. The war has followed a different pattern in Upper Nile State, with less direct involvement of youth groups in large-scale operations. The state, with its still-operational oil fields in Paloich and associated infrastructure, the city of Malakal and the River Nile ports, has numerous militarily significant locations. It has consequently seen the deployment of large numbers of SPLA troops from Divisions I, II, VI and VII, reinforced with Division II beginning in mid-2015, bolstered by National Security Service combat forces.[51] In many areas, experienced and senior SPLA commanders are in control. SPLA has also maintained at least one Mi-24 attack helicopter in Paloich in proximity to the oil fields. Operational control of the helicopter is with SPLA headquarters in Juba.[52]

[50] The assessment was provided to the Panel by UNMISS military personnel and corroborated by the Panel during its visit to Unity State in November. Also, Panel interview with a Nuer community leader in Juba (November) and journalist S with knowledge of the area in Juba (November).

[51] The Panel has also received frequent reports of the involvement of the Sudan People's Liberation Movement-North, a Sudanese opposition group that has bases in Upper Nile State, in fighting SPLM/A in Opposition, but has been unable to independently verify them.

[52] Satellite imagery obtained by the Panel of the Paloich airfield on 31 October and 2, 9 and 14 November; interviews with high-ranking SPLA field commander E in Juba (November), high-ranking SPLA officer A in Juba (September) and the acting commander of Division II in Malakal (September).

56. The Government has armed and used militias in Upper Nile State, most notably the Shilluk Agwelek (until the defection of Major General Johnson Olony in April 2015),[53] the Maban Defence Forces and the Dinka Padang militias from Akoka, Melut and Renk.[54] The Panel has determined, on the basis of multiple, independent sources with first-hand knowledge, that the arming of those communities largely circumvented the SPLA weapon supply and accounting mechanisms, with the Dinka Padang militias in particular receiving small arms and ammunition directly through the Internal Security Bureau, headed by Akol Koor, with financial authorization for the purchase and transfer provided through the Nile Petroleum Corporation by a Dinka Padang and Minister of Petroleum and Mining, Stephen Dieu Dau.[55]

57. Since the Panel's interim report, the Government has launched several attacks on the western bank villages of Upper Nile State, mainly inhabited by Shilluk. Throughout 2015, the Government has undertaken repeated air attacks with Mi-24 helicopters against Shilluk positions and captured territory on the western bank in the vicinity of Malakal.[56] During the attacks, there has been significant destruction, as documented by satellite imagery of some of the locations (see annex II). The defection of Major General Yohanis Okech, a Shilluk, from the Government to SPLM/A in Opposition in late October (during which an UNMISS barge and personnel were detained) was linked to, among other things, his dissatisfaction at the Government's targeting of Shilluk villages with helicopters.[57]

58. A number of individuals in Upper Nile State reported to the Panel that the current period of lower-scale fighting was tenuous and that grievances between

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[53] Well-armed Padang in Akoka have engaged in land disputes with the Shilluk, resulting in the killing of Olony's deputy, Major General James Bwogo Olew, in April. Internal power struggles within SPLA headquarters then prevented adequate handling of the situation, culminating in Olony's subsequent defection with the loss of significant SPLA assets, including some 30 tanks, and renewed fighting in Malakal. Since Olony's defection, the Government has reinforced the Dinka Padang and acceded to many of their demands, including the granting of traditionally Shilluk land to Dinka-dominated areas under Kiir's order to establish 28 states; the appointment of a Padang governor, Chuol Tong; and in December the replacement of the Division I commander in Renk, Stephen Buoys, a Nuer, by a Dinka general, David Manyok Barac, following a disagreement over Dinka militias in Renk.

[54] See "The conflict in Upper Nile State", Human Security Baseline Assessment for Sudan and South Sudan (Geneva, Small Arms Survey, April 2015), available from www.smallarmssurveysudan.org/facts-figures/south-sudan/conflict-of-2013-14/the-conflict-in-upper-nile.html. Panel interview with Johnson Olony in Pagak (November), senior Shilluk commander T in Nairobi (September), international expert O in Malakal (November), an UNMISS local staff member in Malakal (November) and a Nuer community leader in Malakal (November).

[55] Interviews with high-ranking field commander E in Juba (November), former employee of the Ministry of Petroleum and Mining U in Europe (September), employee of Dar Petroleum Operating Company W in Juba (November), civil society representative K in Nairobi (September), international expert O in Malakal (November) and Internet-based interview with international expert on South Sudan M (December). Koor is also a board member of the Nile Petroleum Corporation.

[56] Interview with acting Division II commander in Malakal (September), who said that SPLA had crossed the Nile on the instructions of SPLA headquarters in order to safeguard the landing of aeroplanes at the airport in Malakal and that the crossing had taken place with the support of Mi-24 helicopters controlled by SPLA headquarters.

[57] Okech stated this to UNMISS personnel and to the Panel in a meeting shortly after his defection. He also cited dissatisfaction with the 28-state order as the reason for his defection and the formation of the "Tiger Faction New Forces".

communities or tensions inside SPLA could lead to large-scale violence at any time.[58]

F. Western and Central Equatoria States

59. Largely unaffected (outside Juba) for the first 14 months of the war, Western and Central Equatoria States saw significant increases in fighting in the second half of 2015, a result of tensions between Equatorian communities and Dinka pastoralists. On 22 May, the Mundri West County Executive Director was killed in front of the County Commissioner as they were investigating the killing of two SPLA soldiers. Well-armed cattle herders, supplied with weapons by SPLA commanders and politicians mostly from Lakes and Warrap States, confronted community security forces in the greater Equatoria region, leading to a series of reprisal attacks and an escalation of violence, widely reported in the media.[59]

60. Armed groups in the Equatorias have historically been local defence forces. In Western Equatoria State, an armed community defence force known as the Arrow Boys operated with the tacit approval of the Government to protect local communities from attacks by the Lord's Resistance Army. As the fighting escalated between Equatorian communities, Dinka cattle herders and SPLA, however, segments of the Arrow Boys became increasingly involved, engaging in attacks on government forces on 29 May in Yambio. The Government then deployed additional forces to the area, including the specialized commando unit dispatched from Juba in June.[60] The Government is reported to have suffered defections from SPLA in recent months, and new groups have announced their armed opposition to the Government.[61]

61. Media reporting of a heavy-handed government response to the rebellion, in particular by SPLA, has fuelled a perception among many Equatorians that the conflict is escalating[62] and has exacerbated grievances regarding political exclusion and the increasing tribalism of the war. The dismissal and temporary detention in

[58] In a meeting with the Panel in November, Olony, for example, threatened to retake the entire west bank of the Nile if SPLA did not retreat. Also, Panel interview with UNMISS local and international staff and internally displaced persons in Malakal (October and November) and with international expert O in Malakal (November).

[59] See "South Sudan army accused of killing top Western Equatoria official", *Sudan Tribune*, 23 May 2015, available from www.sudantribune.com/spip.php?article55076. Interview with a group of Equatorian civil society activists in Juba (November), separate interviews with former politicians P and Q in Juba (September and October), high-ranking SPLA officer B in Juba (October), UNMISS officials in Juba (October) and two separate civil society representatives K and V in Nairobi (July and November).

[60] See the Office for the Coordination of Humanitarian Affairs initial rapid needs assessment on Maridi and Ibba counties, Western Equatoria State covering the period from 2 to 5 July 2015, available from http://reliefweb.int/report/south-sudan/irna-report-maridi-and-ibba-counties-western-equatoria-state-2nd-5th-july-2015.

[61] See "Revolutionary Movement for National Salvation: new rebel group formed in South Sudan", South Sudan Nation.com, 28 January 2015, available from www.southsudannation.com/revolutionary-movement-for-national-salvation-remnasa-new-rebel-group-formed-in-south-sudan/; "Former Western Equatoria State's minister joins rebellion, vows to topple Kiir's tribal regime", South Sudan News Agency, 24 November 2015, available from www.southsudannewsagency.com/news/top-stories/former-western-equatoria-states-minister-joins-rebellion.

[62] See "SPLA chief of staff, Malong, orders shoot to kill in Yambio", South Sudan Nation.com, 1 July 2015. Available from www.southsudannation.com/spla-chief-of-staff-malong-orders-shoot-to-kill-in-yambio/.

August of the Governor of Western Equatoria State, Joseph Bangasi Bakosoro, further reinforced that perception.

62. In September and October, fighting broke out in Maridi, Mundri West and Mundri East counties in Western Equatoria State, where there has been further proliferation of armed groups,[63] with some declaring their affiliation with the opposition. There has also been an intensification of government operations in recent months, in particular with the deployment of helicopters. SPLA has persistently blocked the United Nations and the IGAD Monitoring and Verification Mechanism from having access to the most conflict-affected areas of the state and has explicitly threatened to shoot down any aircraft flying without the knowledge of the Government.[64] SPLM/A in Opposition has claimed that two senior opposition military figures were killed near Mundri in December, but the Panel is unable to confirm this independently.[65]

63. While the grievances of many of the Equatorian armed groups are primarily local and centre on issues of tribal and political marginalization, land and conflicts between pastoralists and farmers, some of the groups (the Revolutionary Movement for National Salvation, under Wesley Waluba, and a faction of the Arrow Boys under the former Western Equatoria State Minister of Information, Charles Kisanga) have begun to associate themselves with SPLM/A in Opposition.[66] After initially failing to start his own movement in the Equatorias, Martin Kenji is now the senior operational commander for the opposition for the greater Equatoria region and attended the leadership conference in Pagak, Upper Nile State, convened by Machar in November.[67]

64. In November and December, SPLA concluded two "peace agreements" with different communities in Mundri, Western Equatoria State, and Wonduraba, Central Equatoria State, illustrating the overtly political, rather than exclusively military, role that SPLA is playing in the region.

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[63] See "Former Western Equatoria State's minister joins rebellion, vows to topple Kiir's tribal regime", South Sudan News Agency, 24 November 2015. Available from www.southsudannewsagency.com/news/top-stories/former-western-equatoria-states-minister-joins-rebellion.

[64] See James Butty, "South Sudan military ordered to shoot down planes", Voice of America, 14 December 2015. Available from www.voanews.com/content/south-sudan-military-ordered-to-shoot-down-planes/3101785.html.

[65] See "SPLA-IO two top commanders killed by government forces in Mundri air raids", *Sudan Tribune*, 27 November 2015. Available from www.sudantribune.com/spip php?article57189.

[66] For example, two armed groups, the Revolutionary Movement for National Salvation and the South Sudan People's Patriotic Front, announced in recent months their affiliation with the opposition. See "South Sudan's rebel Revolutionary Movement for National Salvation merges with SPLM-IO", *Sudan Tribune*, 28 October 2015, available from www.sudantribune.com/spip.php?article56873; "Former Western Equatoria State's minister joins rebellion, vows to topple Kiir's tribal regime", South Sudan News Agency, 24 November 2015, available from www.southsudannewsagency.com/news/top-stories/former-western-equatoria-states-minister-joins-rebellion.

[67] First-hand observation by the Panel during a visit to Pagak in November.

IV. Procurement of arms

65. In accordance with its mandate pursuant to paragraph 18 (c) of resolution 2206 (2015),[68] the Panel has investigated the flow of arms and ammunition, as well as their subsequent end use within South Sudan. As noted in its interim report, in the absence of an arms embargo, the acquisition of arms or military materiel does not contravene the provisions of the resolution, a point that the Panel emphasized in all its official correspondence with Member States and entities under investigation.

66. Both sides have continued to seek to arm their forces, even after the signing of the peace agreement in August and in the face of considerable economic stress. The continued influx of arms has had a devastating impact on civilians and on the overall security situation in the country, as described elsewhere herein and in the Panel's interim report. The facts provided below on the procurement and distribution of arms also provide further corroborating evidence of the command responsibility described in section III.

A. Government

67. The Government strategy, as outlined in section III, requires large quantities of mostly small arms and light weapons, and ammunition, for distribution at the community level. The practice is so pervasive that Equatorian leaders complained to the Panel about the limited number of Equatorians in the senior ranks of SPLA, resulting in a comparative disadvantage in terms of materiel in their fight against Dinka pastoralists.[69]

68. Before the outbreak of the war, the Government had limited knowledge of the number of arms in its possession owing to a lack of proper registration and regular cases of theft or diversion of arms from government stockpiles.[70] The war has dramatically exacerbated the situation, up to the point that the Government does not know how many men it either pays or effectively commands, or how many arms it possesses.[71] Consequently, the acquisition policy for small arms has been based on the assumption that "more is always better". In addition, senior government and military officials have an interest in arming their own communities in order to allow those groups to steal more cattle and win disputes over land, given that it increases their status and political capital. The habit has proved particularly damaging in the Dinka-dominated Warrap and Lakes States, leading to large-scale fighting between Dinka clans.

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[68] The Panel was mandated to gather, examine and analyse information regarding the supply, sale or transfer of arms and related materiel and related military or other assistance, including through illicit trafficking networks, to individuals and entities undermining political processes to reach a final peace agreement or participating in acts that violated international human rights law or international humanitarian law, as applicable.

[69] Interviews with former politicians P and Q in Juba (October and November).

[70] See Benjamin King, "Excess arms in South Sudan: security forces and surplus management", Small Arms Survey, issue brief, No. 6 (Geneva, April 2014). Available from www.smallarmssurvey.org/fileadmin/docs/G-Issue-briefs/SAS-IB6-Excess-Arms-in-South-Sudan.pdf.

[71] Interviews with high-ranking SPLA officers A and B in Juba (August, September and November), a senior government official in Juba (June) and former politician P in Juba (September).

69. The main focus of government acquisition has been relatively simple and often antiquated equipment designed and usually manufactured in the former Warsaw Pact countries or copies of such materiel.[72] The weapons can be operated by new recruits without a great degree of training. Ukraine reported the export of 830 light machine guns and 62 heavy machine guns to South Sudan in its 2014 arms export report.[73] The equipment procured from China North Industries Corporation (Norinco), about which the Panel reported in its interim report, is another example.

70. The war has decisively reduced the number of individuals and institutions involved in decision-making concerning the acquisition of arms and ammunition. On the basis of a thorough review of documentation, supplemented by interviews with multiple, independent sources with first-hand knowledge, the Panel has determined that the key individuals involved in decisions concerning the acquisition of arms are Kiir, the Minister of Defence and Veterans' Affairs, Kuol Manyang, the SPLA Chief of General Staff, Paul Malong, the Director General of the Internal Security Bureau, Akol Koor, the Minister of Petroleum and Mining, Stephen Dieu Dau, and, to a lesser extent, the Minister of Finance and Economic Planning, David Deng Athorbei, and the Minister of National Security, Obuto Mamur. They also represent the few institutions within the Government that still have access to hard currency obtained from petroleum sales. Given the relatively large sums and the extremely limited number of individuals involved, together with the complete lack of oversight over defence spending, the likelihood of corruption is high.[74]

71. The practice of bypassing accountability mechanisms to procure arms began before the war. In 2013, Akol Koor bypassed the then-Minister of National Security, Oyay Deng Ajak, and went straight to the Presidency to facilitate the acquisition of the Israeli ACE rifles cited in the Panel's interim report.[75] The rifles were handed out to members of the Mathiang Anyoor from the presidential palace as they targeted Nuer in Juba in December 2013.[76] The bypassing practice has increased in frequency during the war, so that offices such as the SPLA procurement, supply and training directorates and internal auditing mechanisms are routinely bypassed or informed only after the purchase has been made.[77]

72. The situation, combined with a relatively limited range of choices available as a result of the European Union arms embargo and the refusal of some States Members of the United Nations to export to a Government fighting a war, leads to

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[72] Confidential documentation obtained by the Panel.

[73] See www.dsecu.gov.ua/control/uk/publish/article;jsessionid=39801E0E982121585786A851C4A4D434?art_id=48545&cat_id=48544.

[74] Documentation obtained by the Panel and interviews with high-ranking SPLA officers A and B, senior SPLA officer D and Ministry of Defence and Veterans' Affairs officials G and I in Juba (September, October and November), supplemented by interviews with South Sudanese civil society representatives in Juba (August and November), Malakal (October and November) and Nairobi (October), SPLM/A in Opposition in Pagak (November) and government official C in Kampala (November).

[75] End-user certificate seen by the Panel and interview with former senior South Sudanese government officials AA and BB in Nairobi (November).

[76] Panel interview with former National Security Service member H closely involved in the events (Khartoum, August), as well as two South Sudanese eyewitnesses (Juba, September and October). For a description of the events and the role of the Mathiang Anyoor, see the final report of the African Union Commission of Inquiry on South Sudan.

[77] Panel interviews with high-ranking SPLA officers A and B and senior SPLA officer D in Juba (September and November).

suboptimal acquisition choices for the battlefield conditions or desired objectives, i.e. materiel is sometimes considered insufficiently sturdy for the terrain (such as armoured personnel carriers), to be lacking armour (such as the amphibious vehicles noted in the Panel's interim report) or not to be in keeping with existing battlefield tactics or supply chains.

73. A case in point is the increasing presence of automatic rifles that fire the shorter 5.56x45 mm NATO cartridge, such as Chinese-produced CQ rifles and Israeli Micro Galils. These weapons pose a logistical challenge because different calibres from the standard 7.62 mm need to be provided to units on the battlefield.[78] Nevertheless, the Panel has observed that rifles firing that calibre are present in larger numbers than before the outbreak of the conflict, especially in Upper Nile State.[79] The Panel has also inspected a wide array of auxiliary equipment in the hands of the security services, including many forms of grenade launchers (under-barrel launchers, automatic multi-barrel launchers and even riot guns).

74. Amid the multiple amorphous fighting forces that it has employed, the Government has retained a basic capacity to strike at targets considered to be of high value with units that are better trained and equipped, mostly the National Security Service, the Commando Division and Division I in Renk, although, as noted in section III, the Government sometimes decides intentionally not to deploy them. The Mi-24 attack helicopters cited in the Panel's interim report are vital in providing the Government with a decisive operational advantage, especially in the defence of Juba and of the main oil installations in Paloich, Upper Nile State.

75. As at mid-December, the Government had at least three operational Mi-24 helicopters and was awaiting the delivery of another, pending the finalization of payment. The helicopters were procured from a private Ukrainian company, Motor Sich, for $42.8 million.[80] The Panel has consulted multiple aviation experts, who have asserted that, even if the contract included fees for maintenance and operations, the unit price for that type of aircraft was inflated. Payment was made in two instalments, with the first, of $21 million, processed through the Ministry of Petroleum and Mining.[81] This was a clear violation of government procedures for such transactions, which are supposed to pass through the Ministry of Finance and Economic Planning. The Minister of Defence and Veterans' Affairs then instructed the Minister of Finance and Economic Planning on 15 September to pay the second instalment, potentially indicating either a change in procedure or a lack of available hard currency in the Ministry of Petroleum and Mining.[82] The Ukrainian authorities

[78] CQ rifles were present before December 2013, but were not in use by the government security services themselves but by various militia groups. See Emile LeBrun, ed., "Pendulum swings: the rise and fall of insurgent militias in South Sudan", Human Security Baseline Assessment for Sudan and South Sudan, issue brief, No. 22 (Geneva, Small Arms Survey, November 2013). Available from www.smallarmssurveysudan.org/fileadmin/docs/issue-briefs/HSBA-IB22-Pendulum-Swings.pdf.

[79] For a baseline, see Jonah Leff and Emile LeBrun, *Following the Thread: Arms and Ammunition Tracing in Sudan and South Sudan*, Human Security Baseline Assessment for Sudan and South Sudan Working Paper, No. 32 (Geneva, Small Arms Survey, Graduate Institute of International and Development Studies, 2014). Available from www.smallarmssurveysudan.org/fileadmin/docs/working-papers/HSBA-WP32-Arms-Tracing.pdf.

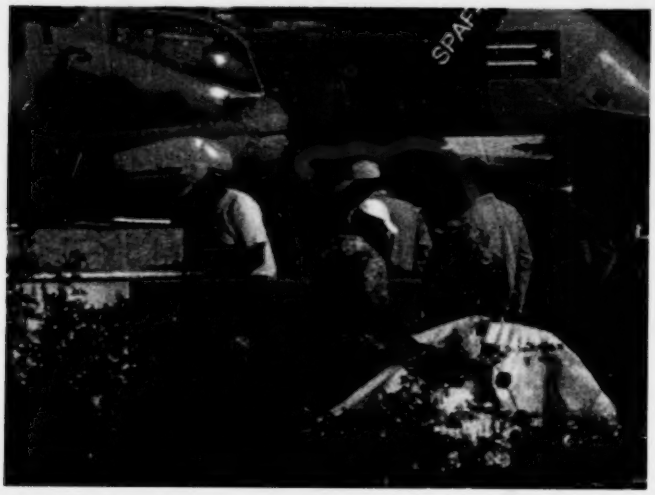
[80] Confidential documentation obtained by the Panel and official correspondence from Ukraine to the Panel. Motor Sich obtained the export licence on 18 September 2014.

[81] Confidential documentation obtained by the Panel. The Panel was unable to trace the exact date on which the first instalment was paid.

[82] Confidential documentation obtained by the Panel.

also indicated to the Panel that they had granted a licence for the export of Mi-24 helicopters to South Sudan from the State export authority, Promoboronexport, on 19 March, without specifying the number of aircraft involved in the transaction or the delivery date.

Figure II
Crews servicing Mi-24 attack helicopters at the military airport in Juba



Source: Panel.

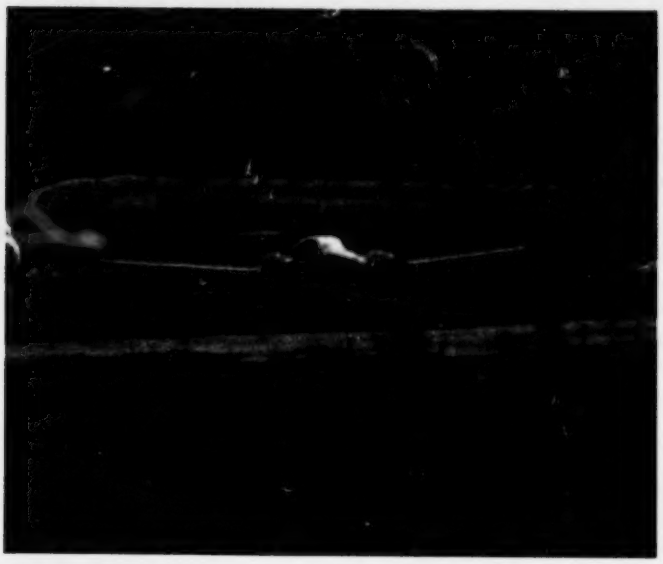
76. The helicopter contracts may include fees for service, maintenance and, possibly, operations. The Panel has observed on multiple occasions the servicing of the helicopters in Juba (see fig. II), with at least 10 Caucasian and three African individuals present on one occasion (26 November) after the conclusion of operations in Western Equatoria State. Some of the contractors wore military fatigues, others civilian outfits and at least one overall bearing the name Motor Sich.

77. The Panel has obtained evidence indicating that, as at mid-September, the Ministry of Defence and Veterans' Affairs was requesting final payment from the Ministry of Finance and Economic Planning for the purchase of four additional attack helicopters through a company called Bosasy Logistics, based in Kampala, at a total cost of $35.7 million.[83] Bosasy Logistics is registered in Uganda as a company that provides security equipment. Its directors are closely connected to the Ugandan security establishment.[84]

[83] Confidential documentation obtained by the Panel. Company records of Bosasy Logistics obtained by the Panel.

[84] Interviews with defence analyst Y and journalist X in Kampala (October) and a Ugandan national in Juba (November), as well as a South Sudanese government official C in Kampala (November). The Ukrainian authorities have indicated to the Panel that Motor Sich also obtained a licence to export helicopters to Uganda in October 2014, and Panel sources in Kampala indicated that they were not aware of any additions of Mi-24 helicopters to the Ugandan air force fleet as at November. However, the Panel cannot state with certainty that Bosasy Logistics is selling helicopters from Motor Sich to South Sudan.

Figure III
Diamond 42 intelligence surveillance reconnaissance aircraft stationed at the military airport in Juba



Source: Panel.

78. Beginning in July, the Panel started to observe the presence of an Austrian-produced Diamond 42 intelligence surveillance reconnaissance aircraft at the military airport in Juba (see fig. III), providing advanced integrated aerial reconnaissance and targeting capabilities for the Mi-24 helicopters and ground forces. This form of integrated target acquisition will give the Government an even greater strategic advantage over opposition and community defence forces.

79. In addition, the Government contracted Norwegian Development General Trading, based in Dubai, United Arab Emirates, to construct two helicopter hangars at a total cost of $16.4 million. The work was continuing in December and the Minister of Defence and Veterans' Affairs was requesting the Minister of Finance and Economic Planning to make payment.[85]

80. Several independent sources in Kampala and Juba have told the Panel that there is a standing unwritten agreement to supply the Government of South Sudan with arms and ammunition through Uganda.[86] According to that information, Uganda either supplies South Sudan with its own stock or acquires the weapons and then transfers them to South Sudan, without necessarily involving or obtaining the consent of the primary seller. The attack helicopters from Bosasy Logistics were acquired under such an agreement.

[85] Confidential documentation obtained by the Panel.

[86] Panel confidential interviews with high-ranking SPLA officer A, official in the Ministry of Defence and Veterans' Affairs in Juba I (October and November), South Sudanese government official C in Kampala (November) and civil society representative K and former politician AA in Nairobi (August).

81. The Panel has, in addition, identified Israeli Micro Galil rifles in Upper Nile State, which were sold by the manufacturer to the Ministry of Defence of Uganda in 2007. The Panel has confirmed, on the basis of multiple, independent sources, that, following the outbreak of the fighting, the weapons were transferred to the National Security Service in 2014.[87] According to the Government of Israel, Uganda did not request permission for the transfer. Micro Galil rifles and IWI ACE rifles are widespread in South Sudan, especially in Upper Nile State, and have become known as "Galaxies".[88]

82. In a letter dated 16 November, the Panel requested information from Uganda on the weapon sales and transfers, but has received no response to date.

83. Several independent sources indicate that the Government of South Sudan is facing severe difficulties in making payment for military materiel and related support, in particular since the second half of 2015. At the same time, the Panel has obtained documentation from mid-September showing that the Ministry of Defence and Veterans' Affairs is actively pressing the Ministry of Finance and Economic Planning for the payment of at least two, and likely three, contracts for military materiel and related equipment, totalling some $50 million, even after the signing of the peace agreement in August and amid claims that it is unable to finance the implementation of the agreement.[89]

84. With the economic crisis and the limited availability of hard currency, the Government has sought alternative payment modes for its arms purchases, involving the advance sale of oil. As recently as November, the Panel has been in touch with two arms brokers contacted by third parties claiming to act on behalf of the Government and offering to pay for arms with South Sudanese crude.

85. Outside of State-to-State transactions, the Government has turned to numerous private companies to satisfy its defence requirements and associated logistics. It uses private companies to fly arms, ammunition, troops, fuel and rations from Juba to the front line. An Antonov 72-100 aircraft with Armenian registration number EK-72928 unloaded arms and ammunition in Rubkona on multiple occasions in November 2014 and April and May 2015 as part of the offensive in Unity State.[90] The aeroplane is officially operated by a Dubai-based company, Reliable Unique Services Aviation,[91] but is painted with the emblem of Golden Wings South Sudan, an airline owned by Obac William Olawo, a Shilluk businessperson with close

[87] Panel confidential interviews with government official in Kampala C (November), high-ranking SPLA field commander E in Juba (November), official in the Ministry of Defence and Veterans' Affairs I in Juba (November) and civil society representative K in Nairobi (October). The Panel asked the sources to identify the arms while showing them pictures of numerous arms present in South Sudan.

[88] Panel interviews with officials of the IGAD Monitoring and Verification Mechanism in Malakal (October), UNMISS in Malakal (October) and confidential interviews with official in the Ministry of Defence I in Juba (November), former official in the Ministry of Petroleum and Mining U (September 2015) and SPLM/A in Opposition military officials in Pagak (November).

[89] Confidential documentation on two separate cases demonstrating that individuals or companies had not been paid, as well as an interview with security expert Y in Kampala (November), an Internet-based interview with an international aviation and arms expert (November) and an e-mail exchange with a United Arab Emirates-based business owner (December). See also "South Sudan appeals for funds to implement peace agreement", *Sudan Tribune*, 5 November 2015, available from www.sudantribune.com/spip.php?article56958.

[90] Confidential source and Panel observation in Rubkona (April and June).

[91] Panel communication with the Government of Armenia. In November 2014, the aeroplane was operated by Air Armenia CJSC and flying without the Golden Wings emblem.

connections to Kiir.[92] He is also the owner of Crown Automobiles, which imported and continues to provide maintenance for 173 SPLA Cougar and Typhoon-type armoured personnel carriers that were procured in 2014 from Streit Group, a company based in the United Arab Emirates.[93]

86. The Government also uses other Armenian and Tajik-registered aircraft operated by various companies for the transport of logistical supplies to its operations in Upper Nile and Unity States. They include Skiva Air, an Armenian-registered company that operated an Antonov-26B aircraft with registration number EK-26310,[94] which was seen unloading ammunition on multiple occasions in Rubkona in April and supplying the SPLA forces conducting operations in Unity State.

87. In August, the Government acquired from a private businessperson in the Sudan an Ilyushin-76 aircraft that is used to transport troops, ammunition and other equipment to Paloich and Malakal, Upper Nile State.[95] The aircraft was most recently registered as ST-ALF and is now flying without a registration number.[96]

B. Opposition

88. The opposition has continuously sought to procure arms from numerous sources, with relatively limited success, mainly owing to a combination of limited funds, a limited number of potential sellers owing to the group's status as a rebel force and logistical constraints. In December 2014, Machar appointed a chief of general staff and eight deputies, including a deputy for logistics, Major General Garouth Gatkuoth.[97] However, Machar always kept involvement in arms acquisition limited within the opposition leadership and, when Gatkuoth was relieved of his position and subsequently defected, he moved the position to his private office, where Major General Karlo Kuol is the director for logistics, based out of Khartoum.[98] However, multiple sources indicate that the chief opposition negotiator, Taban Deng Gai, is in reality in charge of procurement and has been actively seeking to obtain weapons in, among others, the United Arab Emirates.[99] Gatkuoth

[92] Interview with a Golden Wings employee in Juba (October), civil society representative K in Nairobi (October) and SPLM/A in Opposition-affiliated commander T in Nairobi (September).

[93] Correspondence received from the authorities of the United Arab Emirates, confidential documentation obtained by the Panel and Panel first-hand observation of armoured personnel carriers at premises belonging to Crown Automobiles. For a public source, see Arms Trade Treaty Monitor, "Arms transfers to South Sudan", case study 1 (New York, 2015), available from http://armstreatymonitor.org/current/wp-content/uploads/2015/08/ATT_ENGLISH_South-Sudan-Case-Study.pdf.

[94] Panel communication with the Government of Armenia.

[95] Interview with UNMISS in Malakal (October) and with high-ranking SPLA official B in Juba (October).

[96] The Panel observed the aircraft, including the overpainted registration, at the airport in Juba. See annex III for a visual comparison.

[97] See John Young, *A Fractious Rebellion: Inside the SPLM-IO* (Geneva, Small Arms Survey, Graduate Institute of International and Development Studies, 2015). Available from www.smallarmssurveysudan.org/fileadmin/docs/working-papers/HSBA-WP39-SPLM-SPLM/A In Opposition.pdf.

[98] Interviews with SPLM/A in Opposition in Pagak (November).

[99] Interviews with Garouth Gatkuoth and Gabriel Tang in Nairobi (November), Peter Gadet in Khartoum (October) and SPLM/A in Opposition-affiliated commander T in Nairobi (September).

and Peter Gadet told the Panel that Machar and Taban Deng Gai managed procurement directly but without much success.

89. The Panel has determined that Karlo Kuol is the focal point between SPLM/A in Opposition and the Sudanese authorities.[100] The Sudan has been the default arms supplier for the opposition. On the basis of independent testimony from multiple SPLM/A in Opposition commanders and former commanders, the Panel has confirmed that SPLM/A in Opposition has received ammunition and, to a lesser extent, arms and other items, including uniforms, from the Government of the Sudan through its National Intelligence and Security Service. Many of the commanders told the Panel that the supply was insufficient to meet their needs, however.[101] Former opposition members speculated that the Sudan intended to supply sufficient ammunition to keep the opposition fighting, while not providing it with either sufficient materiel or the kind of equipment (in particular surface-to-air missiles) required to defeat the Government.[102] Before his defection from SPLM/A in Opposition and incorporation into SPLA with the rank of lieutenant general, James Gai Yoach also played a facilitation role with the National Intelligence and Security Service.[103]

90. Whereas small arms are abundant in South Sudan, ammunition supply remains problematic and tracing opposition supply routes is difficult. In September, the Panel analysed 208 rounds of 12.7 mm heavy machine gun ammunition, a sample of munitions captured by SPLA from forces aligned with Johnson Olony. Although more than 60 per cent of the ammunition examined in the sample was Chinese-manufactured, it showed great variety in terms of the manufacturing plants and years of production. The Government of China subsequently informed the Panel that the specific ammunition identified by the Panel had not been exported to South Sudan.[104] Other ammunition inspected was from the former Soviet Union and, to a lesser degree, manufactured in the Sudan. In addition, it remains unclear whether the ammunition was provided directly to Olony's forces or whether all or at least a portion of it was recaptured from what he took with him after defecting from SPLA in April.

91. SPLM/A in Opposition has relied extensively on recruitment among Nuer communities and has armed those communities to the greatest extent possible[105] in training camps located across the border in Blue Nile and Southern Kordofan States in the Sudan, as well as through direct supply by air, most recently in September in

[100] Telephone conversation with Karlo Kuol in Khartoum (October). A high-ranking SPLM/A in Opposition commander confirmed Kuol's role in an interview with the Panel.

[101] Panel interview with senior SPLM/A in Opposition representative in Addis Ababa (July); Garouth Gatkuoth, Gabriel Tang and Gabriel Changson in Nairobi (November); Gadet in Khartoum (October); and an SPLM/A in Opposition-affiliated commander in Nairobi (September). The Panel also performed visual comparisons between uniforms that it witnessed at first hand in Tonga, Upper Nile State, and the uniforms of the Sudanese Rapid Support Forces. A senior Sudanese official explained to the Panel in July that there was a disagreement within the Government of the Sudan between the military and security services, which were in favour of provoking unrest in South Sudan through the continued supply of arms, and civilian leaders, who were more interested in stabilizing the situation.

[102] See previous footnote. Also, interviews with two diplomatic representatives in Juba in September.

[103] Panel interviews with Garouth Gatkuoth and Gabriel Tang in Nairobi (November) and Peter Gadet in Khartoum (October).

[104] Official correspondence from China, 6 January 2016.

[105] Panel interview with UNMISS in Malakal (November), a security and arms expert in Europe (May) and officials of the IGAD Monitoring and Verification Mechanism in Juba (September).

Din Din, a town in the vicinity of Leer, Unity State.[106] In addition, forces affiliated to SPLM/A in Opposition in Western Equatoria State externally obtained arms and ammunition as recently as October, demonstrating new capacity to acquire arms far outside the opposition strongholds in the greater Upper Nile region.[107]

92. The opposition is eager to find new supplies of weapons in anticipation of the cantonment of forces and future integration stipulated in the peace agreement. The Panel finds it probable that opposition troop movements through the Maban area in the direction of training camps in Blue Nile State, Sudan, consisted mostly of new recruits, who would receive arms and possibly basic training there in order to qualify as combatants.[108]

V. Violations of the Cessation of Hostilities Agreement

93. In paragraph 7 (a) of its resolution 2206 (2015), the Security Council defined actions or policies that threatened the peace, security and stability of South Sudan as, inter alia, breaches of the Cessation of Hostilities Agreement. UNMISS, the IGAD Monitoring and Verification Mechanism and multiple other sources have documented extensive, continuing violations by both parties on an almost daily basis in multiple locations throughout the country of the Agreement and the permanent ceasefire to which the parties committed themselves in the peace agreement of August, with particularly high levels of continuing violence in Unity, Central and Western Equatoria States as at mid-December.

VI. Threats to an inclusive and sustainable peace

94. The stated objective of resolution 2206 (2015) is to support the search for an inclusive and sustainable peace, and, in paragraph 7 of the resolution, the Security Council defined actions or policies that threatened the peace, security and stability of South Sudan as, inter alia, actions or policies having the purpose or effect of expanding or extending the conflict in South Sudan or obstructing reconciliation or peace talks or processes, including breaches of the Cessation of Hostilities Agreement, and actions or policies that threatened transitional agreements or undermined the political process in South Sudan.

95. Consistent with those provisions, the Panel has closely observed the parties' participation in the IGAD-mediated peace process and the implementation of the peace agreement.

[106] Interviews in Juba with a community member present at the site and journalist S (November), as well as UNMISS source DD in Juba and communication with a Western intelligence source.

[107] Panel's confidential interview with journalist S in Juba (November), researcher on South Sudan EE in Nairobi (2015) and officials of the IGAD Monitoring and Verification Mechanism in Juba in November. At the time of writing, the Panel had not established the exact transit and supply route used.

[108] Panel interviews with international and local UNMISS staff members in Malakal (September) and UNMISS source DD in Juba (November).

A. Intergovernmental Authority on Development peace process

96. On 6 March 2015, three days after the adoption of resolution 2206 (2015), IGAD-mediated talks towards the peace agreement collapsed. After adjustments to the mediation architecture to expand the involvement of regional States and the broader international community, the IGAD mediation team, backed by the "IGAD plus" group, presented the parties with a proposed compromise agreement on the resolution of the conflict on 24 July. Consistent with the timeline established by the mediation team, the parties reconvened in Addis Ababa early in August for talks on that agreement.

97. On 17 August, Machar signed the agreement on behalf of SPLM/A in Opposition and Pagan Amum signed on behalf of the G-10/"former detainees". Kiir did not initially sign the agreement and requested an additional 15 days for consultations, saying in an address on 15 September that he had refused to sign "because it contained proposals which compromise the sovereignty and territorial integrity of our country".

98. Under significant pressure from the international community and notwithstanding the resistance from within his own party and the Cabinet, Kiir ultimately signed the agreement in Juba on 26 August in the presence of the Presidents of Kenya and Uganda, the Prime Minister of Ethiopia and the First Vice-President of the Sudan. The Government of South Sudan concurrently circulated a list of 16 reservations. While some of the reservations are procedural, several express direct opposition to core provisions of the agreement, including the demilitarization of Juba, the establishment of the Joint Monitoring and Evaluation Commission, the power-sharing structure of the executive and the procedure for the appointment of the Cabinet, the appointment of members of the opposition as the governors of two states, the power-sharing ratios within the state councils of ministers and the establishment of the economic and financial management authority envisaged in the agreement.[109] IGAD has stated that the reservations have no legal standing.

99. The Government's subsequent public statements regarding the peace agreement have been mixed. On 15 September, Kiir addressed the nation and characterized it as "the most divisive and unprecedented peace deal ever seen in the history of our country and the continent of Africa at large". He has since affirmed a rhetorical commitment to implementation, including in an address to the National Legislative Assembly on 18 November when he stated that he was ready to implement the agreement in letter and in spirit.

[109] See https://paanluelwel2011.files.wordpress.com/2015/08/president-kiirs-reservation-to-the-igad-peace-agreement.pdf.

B. Implementation of the peace agreement

100. On 2 October, Kiir issued an order to increase the number of states in South Sudan from 10 to 28, which IGAD characterized as contrary to the spirit and letter of the peace agreement.[110] The agreement states:

> Not later than one month of the commencement of the Transitional Period, Transitional Governors of Jonglei, Unity and Upper Nile states shall be appointed for the duration of the Transition. For two of the Governors position in Upper Nile and Unity States, the South Sudan Armed Opposition shall nominate the candidates which the President shall appoint respectively. The GRSS will nominate the Governor of Jonglei State.

101. According to the presidential order, Unity and Upper Nile States will each be divided into three separate states, with the oil fields in Upper Nile State effectively coming under the control of the Dinka.[111] On 19 November, the National Legislative Assembly amended the Constitution to clear the way for the implementation of the order. As at mid-December, the 10 states remained intact and no new governors had been appointed.

102. The Panel is able to confirm that, according to the timeline to which the parties committed themselves, the Government has fully acted upon 3 of the more than 15 benchmarks established in the peace agreement for action to date and the opposition has fully acted upon 2. Under the agreement, the parties were to establish the Transitional Government of National Unity at the end of November, but it has yet to be constituted.

103. After initially failing to reach agreement on the transitional security arrangements during a meeting held from 13 to 18 September in Addis Ababa, the parties agreed on 3 November on security arrangements to allow for Machar's return to Juba and the establishment of the Transitional Government of National Unity. They further agreed that the advance teams from the opposition and the G-10/"former detainees" would travel to Juba in mid-November to begin preparations to establish the Transitional Government. The parties also acknowledged that the implementation of the peace agreement was behind schedule and that, in particular, the delay in establishing a national constitutional amendment committee and integrating the agreement into the Constitution made the agreed timeline for implementation

[110] The genesis of the order was a proposal by the Jieng (Dinka) Council of Elders to increase the number of states to 24, which was circulated in September. Federalism and the number of states in South Sudan was a contentious issue during the IGAD negotiations; SPLM/A in Opposition advocated 21 states based on British colonial boundaries and the Government then expressed opposition to federalism. The peace agreement stipulates that federalism should be discussed as part of the process for drafting and ratifying a permanent constitution during the transitional period of the Transitional Government of National Unity rather than during the pre-transitional period.

[111] The Minister of Information and Broadcasting and deputy negotiator for the peace process, Michael Makuei, has stated publicly that the opposition will be granted the governorships of the six new states derived from Upper Nile and Unity States. Control over the oil fields also implies that the 2 per cent revenue that the Transitional Constitution endows on the state in which the oil fields are located would go to the newly created state.

impossible.[112] Consequently, they agreed to delay the establishment of the Transitional Government until either between 15 December 2015 and 15 January 2016 or between 28 December 2015 and 27 January 2016.

104. Consistent with the understandings reached by the parties on 3 November, a summit of the IGAD Heads of State and Government was scheduled for the week of 16 November to announce the launch of the Joint Monitoring and Evaluation Commission and to welcome the advance teams of the opposition and the G-10/"former detainees" to Juba to prepare for the establishment of the Transitional Government. The Government postponed the meetings, however, citing the need for more time to prepare security and housing for the teams. The Chair of the Commission and former President of Botswana, Festus Mogae, informed the parties on 20 November that the first meeting of the Commission, which by necessity should include the representatives of all the parties, would be held in Juba on 27 November. SPLM/A in Opposition did not attend the first meeting, however, and therefore the required quorum of South Sudanese participants was not met.[113] A delegation of the G-10/"former detainees" did return to Juba to attend the meeting.

105. As at the time of submission of the present report, in mid-December, the deployment of the SPLM/A in Opposition advance team to Juba, a prerequisite for establishing the Transitional Government, remained uncertain owing to a dispute between the Government and the opposition over the size of the team.

VII. Violations of international human rights and international humanitarian law

106. In paragraph 7 of its resolution 2206 (2015), the Security Council defined actions or policies that threatened the peace, security or stability of South Sudan as including:

(a) Planning, directing or committing acts that violated applicable international human rights law or international humanitarian law, or acts that constituted human rights abuses, in South Sudan;

(b) The targeting of civilians, including women and children, through the commission of acts of violence (including killing, maiming, torture or sexual violence), abduction, enforced disappearance, forced displacement or attacks on schools, hospitals, religious sites or locations where civilians are seeking refuge, or through conduct that would constitute a serious abuse of human rights or a violation of international humanitarian law;

(c) The use or recruitment of children by armed groups or armed forces in the context of the armed conflict in South Sudan.

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[112] Seven of the nine members of the National Constitutional Amendment Committee, i.e. all members except those from the Government, are opposed to the change in the number of states outside the constitutional review process outlined in the peace agreement. When the Panel asked both the acting chief negotiator of the Government and Kiir's legal adviser how the Government would address a likely effort by the Committee to nullify the 28-state order, they responded that the Government would never accept changes dictated by the Committee, notwithstanding the Government's ostensible commitment to the agreement.

[113] The opposition cited the 28-state order as the principal justification for its decision not to attend. Machar also demanded a bilateral meeting with Kiir before he would return to Juba.

107. In its interim report, the Panel presented evidence of acts violating applicable international human rights law or international humanitarian law committed by all parties to the war. On the basis of site visits and interviews with victims, witnesses and multiple independent sources with first-hand knowledge, supplemented by a thorough review of documentation, the Panel has determined that, notwithstanding the peace agreement of August, violations have continued unabated and with full impunity. The Panel has found that the violations include extrajudicial killings, torture, conflict-related sexual violence, extrajudicial arrest and detention, abductions, forced displacement, the use and recruitment of children, beatings, looting and the destruction of livelihoods and homes.

A. Targeting of civilians

108. Civilians, including young children and older persons, not taking an active part in the hostilities have been deliberately targeted as part of military tactics. All parties to the conflict have attacked civilians on the basis of their belonging or their (perceived) allegiance to a competing tribal group. Civilians have been targeted since the beginning of the war, in December 2013, up to the time of submission of the present report, in mid-December 2015.

109. In its report, the African Union Commission of Inquiry on South Sudan described the gross violations of human rights committed against civilians, concluding in paragraph 1135 that the crimes "were committed in a widespread or systematic manner, and that evidence points to the existence of a state or organizational policy to launch attacks against civilians based on their tribal or political affiliation". On the basis of its investigations as set out below, the Panel has found that all parties to the conflict have continued and are continuing these practices.

Unity State

110. The Panel reported extensively in its interim report on the particularly brutal violence systematically perpetrated as part of the government offensive in Unity State, which began at the end of April. On the basis of the evidence collected, the Panel concludes that SPLA and its allied armed groups continue to implement their scorched earth strategy, with egregious human rights abuses, massive forced population displacements, the systematic destruction of livelihoods and food crops and the raiding of cattle.

111. The ultimate objective of the government offensive appears to be to render communal life unviable, leaving the population with nothing and forcing their displacement to the United Nations site for the protection of civilians in Bentiu or other areas, thereby clearing the population from southern and central Unity State to deny SPLM/A in Opposition a support base.[114] As at 9 November 2015, the Office for the Coordination of Humanitarian Affairs estimated that at least 541,395 people

[114] As reported by the Panel in its interim report and corroborated by interviews with witnesses and victims in Bentiu (July), as well as interviews with multiple, independent sources, including UNMISS and humanitarian actors in Juba (July, August, October and November) and Bentiu (July). Further confirmed through various reports by UNMISS, the United Nations Children's Fund (UNICEF), Médecins sans frontières, ICRC and other humanitarian actors.

had been displaced inside Unity State.[115] While tens of thousands have fled to the site for the protection of civilians, where more than 106,000 people currently reside, the vast majority of the displaced are hiding in swamps outside their destroyed villages.[116] The Panel has received reports from humanitarian actors that internally displaced persons who fled to the site after their village was attacked then returned to their villages in an effort to cultivate crops in order to feed their families, only to suffer further violence at the hands of another armed group that came to the village in search of loot.[117]

112. If the members of the local community have anything left in terms of food, cattle or crops following attacks by SPLA or affiliated forces, they are often pressured to hand those assets over to feed members of SPLM/A in Opposition.[118]

113. The Panel travelled to Bentiu in November and accompanied an UNMISS patrol to villages in Rubkona County to investigate possible atrocities and meet individuals who had witnessed the events at first hand and local political officials and military personnel. The Panel gathered and reviewed evidence of forced disappearances, extrajudicial killings, looting and cattle-raiding. In one instance, the Panel located individuals displaced into the bush by an attack on a small village in Rubkona County in late October, during which three men had been killed by government-backed Mayom youth. In another incident, on or about 24 October, a group of some 50 men were taken by government-affiliated forces from Adok, Leer County, to the town of Leer and subsequently killed.[119] Their bodies were dumped by the roadside on the outskirts of the town.[120] After being informed of the killings by people in Adok, UNMISS personnel located and photographed the bodies, already in an advanced state of decay, nine days later.[121] On the basis of reports from more than 15 humanitarian actors in the state, the South Sudan protection cluster[122] concluded that in Leer County alone at least 80 civilians had been killed over a three-week period between 4 and 22 October. Among those were at least 57 children, 29 of whom drowned while fleeing attacks. The cluster further noted:

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[115] See Office for the Coordination of Humanitarian Affairs, "South Sudan: humanitarian snapshot (as of 9 November 2015)". Available from http://reliefweb.int/sites/reliefweb.int/files/resources/South_Sudan_Humanitarian_Snapshot_09Nov2015.pdf.

[116] See UNICEF, "South Sudan humanitarian situation report", No. 73 (3 December 2015). Available from http://reliefweb.int/sites/reliefweb.int/files/resources/UNICEF%20South%20Sudan%20SitRep%20No%2073%2C%203%20December%202015.%20%282%29docx.pdf. Also, Panel interviews with humanitarian actors in Bentiu (July) and Juba (August, October and November).

[117] Interviews with UNMISS and humanitarian actors in Bentiu (July) and Juba (August and October).

[118] Interviews with UNMISS and humanitarian actors in Bentiu (July) and Juba (October).

[119] Reports from first-hand witnesses, UNMISS personnel from the patrol that discovered the bodies and the IGAD Monitoring and Verification Mechanism. Further investigations will be required to establish individual responsibility.

[120] Reports vary on the method of killing, but preliminary reports claimed that the men might have been beaten to death. The advanced decay of the bodies and the predation by animals prevent conclusions being drawn from the photographic evidence viewed by the Panel.

[121] Confidential documentation, including photographs and a list with the names of the deceased, on file with the Panel.

[122] The South Sudan protection cluster coordinates humanitarian protection activities on community protection, gender-based violence, child protection, protection of civilians, rule of law, mine action and land issues across the 10 states of South Sudan. Based in Juba, it is coordinated by the Office of the United Nations High Commissioner for Refugees and the Norwegian Refugee Council. See www.humanitarianresponse.info/en/operations/south-sudan/protection.

"Widespread use of sexual violence was also reported, with contacts on the ground reporting over 50 cases of rape. IDPs further reported that Government forces shot into swamps at fleeing civilians, burned houses, and abducted women and children."[123]

114. The devastating situation on the ground reflects the results of the Government systematically attacking its own citizens. A team of government experts and international specialists in food security and nutrition managed a rare visit to parts of Guit, Mayendit and Koch counties in November 2015. They found a population mainly hiding in the bush or on islands in the swamp, living off water lilies and fish, their livestock having been looted, their crops destroyed and markets disrupted. The specialists estimated that 40,000 people in Unity State would experience "Catastrophe" (Integrated Food Security Phase Classification 5) and that the situation was likely to deteriorate into famine in the absence of urgent and immediate humanitarian access.[124] In January 2016, the dry season will begin, rivers will dry up and fish and plants will become scarce. In addition, armed actors tend to take advantage of the improved terrain conditions to launch new attacks, leading to worsening insecurity. Unless the people of central and southern Unity State receive urgent food and livelihood assistance on a massive scale, humanitarian actors anticipate famine early in 2016.[125]

Upper Nile State

115. In Upper Nile State, the period between April and July 2015 was marked by a surge in fighting, with civilians targeted by all sides, usually on the basis of tribal affiliation.[126] Even before the war began, the state's three major tribes were competing for political representation, in addition to water and land rights, which would sometimes lead to violent clashes. That dimension has without a doubt aggravated the current conflict as armed groups, driven by their own tribal interests, attacked civilians from other tribes. In May, the situation worsened when Johnson Olony and his Shilluk troops broke away from SPLA and joined the opposition, while also capturing Malakal, the state capital.

116. On 6 July, SPLA regained Malakal and has since retained control. Fighting has continued in other parts of the state, however, including on the west bank of the Nile, where, on 2 September 2015, SPLA attacked SPLM/A in Opposition positions in Lelo Payam (see S/2015/902) and further north towards Melut and Renk. The successive waves of fighting have caused thousands of civilians to flee for safety to the United

[123] See South Sudan protection cluster; "Flash update: protection situation in southern and central Unity (September-October 2015). Available from http://reliefweb.int/sites/reliefweb.int/files/resources/protection_cluster_flash_update_on_unity_23.10.2015_final.pdf.

[124] See "Central and southern Unity verification mission report: final report", Integrated Food Security Phase Classification, 20 November 2015. Available from http://reliefweb.int/sites/reliefweb.int/files/resources/Reconnaissance%20Mission%20Report_Central%20and%20Southern%20Unity_FINAL.pdf.

[125] See Office for the Coordination of Humanitarian Affairs, *Humanitarian Bulletin: South Sudan* (1 December 2015). Available from www.unocha.org/south-sudan/. Interviews with humanitarian actors in Juba (November) and over the Internet (December). On the risk of famine, see also "Two years of South Sudan war with peace on paper only", Agence France-Presse, 15 December 2015. Available from http://reliefweb.int/report/south-sudan/two-years-south-sudan-war-peace-paper-only.

[126] Three major tribes (Dinka, Nuer and Shilluk) make up 90 per cent of the population of Upper Nile State. The Maban and Koma tribes make up the remainder.

Nations sites for the protection of civilians in Malakal and Melut and other camps for internally displaced persons in the state. With every attack, civilians are killed when caught in the line of fire or deliberately attacked by forces of the opposing tribal group, often accompanied by the abduction of women and other conflict-related sexual violence, as well as the destruction of livelihoods and houses.[127]

117. In November, the Panel travelled to the town of Malakal, the United Nations site for the protection of civilians in Malakal, Wau Shilluk and Melut to investigate allegations of human rights abuses (see the case study on humanitarian access to Malakal and Wau Shilluk below). In Malakal, the Panel accompanied UNMISS on a town patrol, where it observed the destruction of houses and public buildings, including the Malakal teaching hospital. Many of the town's residents now live inside the United Nations site for the protection of civilians, given that they do not feel safe living in the town. The Panel met the acting SPLA Division II commander, Major General Puot, who expressed a commitment to living peacefully together with the internally displaced persons and UNMISS but admitted that challenges needed to be addressed.[128] At the Malakal site for the protection of civilians, the Panel interviewed two groups of internally displaced persons whose stories reflected how intercommunal tensions have affected people living at the sites. A female Nuer community leader explained that Nuer internally displaced persons were staying inside the camp as much as possible to avoid being targeted by Dinka soldiers. A female Shilluk community leader told the Panel how her husband had been murdered in his bed while convalescing at the Malakal teaching hospital when SPLM/A in Opposition had attacked Malakal in February 2014.

118. The Panel also has received reports from internally displaced persons and humanitarian actors of extrajudicial killings, arbitrary arrests and detentions, abductions and forced disappearances, beatings, looting and rapes immediately outside the protection site. Through interviews with internally displaced persons and UNMISS, the Panel learned that, on 31 October 2015, three boys with their nine head of cattle were abducted by SPLA not too far from the site; their whereabouts remain unknown. Internally displaced persons also told the Panel about three women who had left the site early in October to collect greens during the day, whom they believed had been killed by SPLA soldiers.

119. SPLM/A in Opposition is also targeting civilians in Upper Nile State, albeit on a lesser scale. In Melut, the Panel visited the Detoma I camp for internally displaced persons and interviewed five leaders, including the deputy paramount chief of a village in Balliet County (all Jikany Nuer). They asserted that their main concern was insecurity and that they feared another attack from SPLM/A in Opposition. During the fighting in May, opposition shelling had hit the camp, killing an unspecified number of internally displaced persons and burning down tukuls.

Western Equatoria State

120. As described in section III, the security and humanitarian situation in Western Equatoria State has deteriorated significantly following initial clashes in May and

[127] Interviews with internally displaced persons, UNMISS and humanitarian actors in Malakal (November) and with humanitarian actors in Juba (July, October and November).

[128] As at mid-December, the Division II commander, Major General Boutros Bol Bol, was back in charge. See the case study below detailing his obstruction of humanitarian access to Malakal and Wau Shilluk.

June, and violence is spreading across the state. The Panel has received reports of extrajudicial killings, beatings, harassment, land-grabbing, cattle-raiding and looting by various actors.[129] As tensions between Equatorian farming communities and Dinka pastoralists have escalated, SPLA has attacked civilians, some of whom then took up arms in self-defence.[130] Many civilians now fear any uniformed personnel and flee when they see them, the violence having resulted in a complete erosion of trust between the population and SPLA.[131]

121. In Maridi County,[132] growing tensions between local communities, Dinka SPLA forces, and Dinka and Mundari migrant cattle-keepers led to clashes on 7 June in the town of Maridi, when cattle-keepers took revenge for the death of a number of cows as a result of a hand grenade being thrown in their cattle camp. At the end of June, more than 30 local young people were arbitrarily arrested by SPLA forces, taken to Juba and detained there until their release early in September.[133]

122. Clashes between SPLA forces and local groups in Mundri West and Mundri East counties in September and October 2015 forced tens of thousands of people from their homes. The South Sudan Relief and Rehabilitation Commission reported that an estimated 30,000 people had been displaced from Mundri in May 2015.[134] By 9 November, an estimated 93,276 people had been displaced throughout the state.[135]

123. As at the end of November, the situation in Ezo County had deteriorated and fighting between SPLA forces and local groups had resulted in the destruction and looting of shops, homes and humanitarian supplies, with people fleeing to the neighbouring Democratic Republic of the Congo and the Central African Republic. Fighting was also reported in Tambura County, triggering the displacement of at least 7,000 people.[136]

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[129] Sources include UNMISS, the Office for the Coordination of Humanitarian Affairs, humanitarian organizations, open sources and confidential interviews, as specified in subsequent footnotes.

[130] See the initial rapid needs assessment on Mundri West and East counties, Western Equatoria State, covering the period 27-30 October 2015, and interviews with UNMISS and humanitarian workers in Juba (October and November 2015). The South Sudan Human Rights Society for Advocacy urged investigations into targeted killings of civilians by SPLA in Maridi. See "South Sudanese rights body urges investigation into Wonduruba and Maridi killings", *Sudan Tribune*, 20 October 2015, available from www.sudantribune.com/spip.php?article56791.

[131] See "Understanding new violence in South Sudan's Western Equatoria", Radio Tamazuj, 10 October 2015, available from https://radiotamazuj.org/en/article/understanding-new-violence-south-sudans-western-equatoria.

[132] There are at least five tribal groups living in Maridi County who appeared to have joined forces against the Dinka and Mundari pastoralists, many of whom are not locals but migrant cattle-keepers.

[133] Interviews with UNMISS and humanitarian actors in Juba in October and November.

[134] As reported to the Adventist Development and Relief Agency during its assessment mission, see the initial rapid needs assessment on Mundri West and East counties, Western Equatoria State, covering the period 5-10 June 2015. Available from www.humanitarianresponse.info/sites/www.humanitarianresponse.info/files/assessments/2014_draft_irna_mundri_west_draft_report.pdf.

[135] See Office for the Coordination of Humanitarian Affairs, "South Sudan: humanitarian snapshot (as of 9 November 2015)".

[136] See Office for the Coordination of Humanitarian Affairs, *Humanitarian Bulletin: South Sudan* (1 December 2015).

B. Use and recruitment of children

124. As part of its monitoring of grave violations against children, from 15 December 2013 to October 2015, the United Nations received verified and unverified reports of incidents affecting 58,690 children. The reported incidents included the killing of 1,457 children, 278 incidents of recruitment affecting between 15,000 and 16,000 children, the abduction of 1,592 children and sexual violence perpetrated against at least 721 children.[137]

125. The reported number of children affected by recruitment jumped significantly from 13,000 in May to around 16,000 in October.[138] However, both SPLA and SPLM/A in Opposition officials have claimed that they no longer have child soldiers in their ranks,[139] even when various open sources suggest otherwise, including the most recent reports of the Secretary-General (see S/2015/899, para. 14, and S/2015/902, para. 44). According to the Secretary-General in his report on children and armed conflict covering the period from January to December 2014 (A/69/926-S/2015/409, annex I), for example, SPLA, SPLM/A in Opposition and Nuer youth militia (the "White Army") all recruited and used children throughout 2014.

126. The Panel has received numerous independent and credible reports, in addition to information uncovered through its own first-hand investigations, that indicate that the Government, SPLM/A in Opposition[140] and their affiliated forces are continuing the practice.[141] During its visit to Upper Nile State in October 2015, the Panel witnessed children carrying guns, presumably acting as bodyguards, at the SPLA barracks in Malakal. During its visit to Unity State in November, the Panel witnessed children carrying arms and participating in a military road checkpoint in Rubkona County. The Panel spoke with the children, who identified themselves as members of SPLA Division IV, which has its headquarters in Rubkona and was then under the command of Major General Thiab Gatluak Taitai. The Panel received additional reports of children fighting for both the Government and opposition from UNMISS and humanitarian actors, including in Koch County (see fig. IV). No children have been formally released since the war began.[142]

127. The practice is not restricted to the greater Upper Nile region. On 8 and 9 July, UNMISS observed some 800 SPLA troops at Wau International Airport, Western Bahr el Ghazal State. An estimated 50 per cent were children between 15 and 17 years of age, wearing SPLA Division III T-shirts.[143] On 30 July, UNMISS

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[137] See UNICEF, "Monitoring and reporting mechanism", briefing note (November 2015). Available from www.childrenofsouthsudan.info/wp-content/uploads/2015/11/MRM-19-Nov.pdf.

[138] See South Sudan protection cluster, "Protection trends: South Sudan, No. 6, July-September 2015 (November 2015). Available from www.humanitarianresponse.info/en/system/files/documents/files/protection_trends_paper_no_6_jul-sep_2015_final.pdf.

[139] Panel's interviews with SPLA and UNMISS officials.

[140] See annex VI for a particular case relating to SPLM/A in Opposition commander Major General Johnson Olony.

[141] Interviews with UNMISS, humanitarian actors and researchers in Nairobi (June), Juba (July, August, October), Malakal (November), Bentiu (July) and New York (September).

[142] The exception is the 1,755 children released by the Cobra faction of the South Sudan Democratic Movement/Army early in 2015 as part of a demobilization process begun before the war. See UNICEF, "Child protection", briefing note (3 December 2015). Available from http://www.childrenofsouthsudan.info/unicef-south-sudan-briefing-notes/.

[143] Under South Sudanese law, the legal age for conscription is 18 years.

observed between 300 and 400 SPLA soldiers at the airport in Bor. Among them were some 150 children between 14 and 17 years of age.[144]

Figure IV
Child with weapon and ammunition pouches, Koch County, Unity State, October 2015

Source: Confidential.

C. Conflict-related sexual violence

128. Conflict-related sexual violence is a hallmark of the war in South Sudan, with women and girls bearing the brunt of this degrading practice.[145] Almost every attack on a village, whether perpetrated by SPLA, SPLM/A in Opposition or an allied militia, is accompanied by the rape and abduction of women and girls. During attacks, women and girls are often abducted to be forcibly taken as wives or for other forms of sexual slavery.[146] As described in its interim report, the Panel has found that all parties deliberately use rape as a tactic of war, often in gruesome incidents of gang rape.

129. In Unity State alone, humanitarian workers estimate that more than 1,300 women and girls were raped between April and September, with some incidents

[144] UNMISS confidential sources, on file with the Panel.

[145] The Panel focused on sexual violence directly relating to the conflict and has not yet investigated other forms of sexual and gender-based violence, including forced marriage, domestic violence or sexual violence by other uniformed personnel, such as the national police or the wildlife police. UNMISS has reported to the Panel that it has been collecting reports of sexual violence in all 10 states.

[146] Panel interviews with United Nations, humanitarian actors and internally displaced persons in Juba (July, August, October and November), Bentiu (July), Malakal (October) and New York (September).

resulting in loss of life.[147] More recently, in the space of nine days in November 2015, at least four incidents of rape were perpetrated, illustrating how rampant conflict-related sexual violence is in the state. All incidents except one pertain to women who had already fled some type of violence at home and were making their way to the United Nations site for the protection of civilians in Bentiu to seek safety.

130. On or around 2 November, a woman originally from Leer County was gang-raped by six men in her tukul. She had already been raped by an SPLA soldier during an attack on her village in May. On 5 or 6 November, a woman travelling with her family from Koch County was raped by five soldiers in Guit County. On or around 10 November, a woman was raped by an SPLA soldier while travelling through Koch County. On or around 11 November, a woman from Mayendit County travelling with her 6-year-old son was raped by 12 SPLA soldiers by the roadside.[148]

131. The Panel received a report in Malakal of an incident on 31 August, when three internally displaced Shilluk women were harassed and attacked by SPLA soldiers while collecting firewood. In another incident in Central Equatoria State, four Nuer women were abducted in the first days of the conflict in Juba by Dinka SPLA soldiers and taken to Bor, Jonglei State, where they were kept in captivity in harsh living conditions and subjected to sexual slavery.[149]

132. Given the trauma and stigma attached to sexual and gender-based violence, the limited services provided to survivors and the limited access of the United Nations and humanitarian organizations to survivors and witnesses, there is no doubt that the vast majority of violations go unreported. Nevertheless, the Panel collected specific evidence of abuses as described above. The Panel has determined that the violence has been perpetrated in a climate of complete impunity, given that it has found no evidence of any investigations or trials of alleged perpetrators, except for one instance where Major General Puot in Malakal investigated an alleged rape committed by an SPLA soldier.[150]

[147] See South Sudan protection cluster, "Protection situation update: southern and central Unity (April-September 2015), briefing note (25 September 2015). Available from http://reliefweb.int/sites/reliefweb.int/files/resources/protection_cluster_southern_unity_apr-sep_2015_final.pdf.

[148] Confidential documentation provided to the Panel by three independent sources, on file with the Panel.

[149] Panel interview with UNMISS official in Juba (November).

[150] When the Panel interviewed Major General Puot at the end of October, the SPLA soldier was being held, awaiting court martial. At the time of writing, UNMISS reported that no further action had been taken.

D. Arbitrary arrest and detention

133. The National Security Service and SPLA Military Intelligence have been involved in the arbitrary arrest and detention of individuals suspected of supporting SPLM/A in Opposition.[151] The Internal Security Bureau, under Akol Koor, was, at the time of writing, holding at least 50 individuals in a detention site at its headquarters in Juba, together with an unknown number of suspects at a site located close to the River Nile in Juba. Detainees are subjected to beatings and other forms of inhuman or degrading treatment.[152] Military Intelligence, under the command of Marial Nuor, has illegally held individuals at its Ghiyada barracks in Juba. Detainees held by both institutions have never been charged, do not have access to legal representation and in some cases have been held for at least a year without appearing in court. The Panel has seen documentation proving that the Ugandan authorities handed over at least one victim to the National Security Service.[153] The Panel also finds it probable that the Service is responsible for setting up a dedicated team that carries out targeted assassinations, mostly in Juba, who have become widely known as the "unknown gunmen".[154]

134. Initially, most arrests and detentions were of Nuer. In recent months, however, Equatorians have increasingly become the targets of arrest by both the National Security Service and Military Intelligence as the political opposition to the Government has grown in the greater Equatoria region.[155] The Service's ability to identify and illegally apprehend individuals has been significantly enhanced since

[151] Panel interviews in Juba with two individuals held by the National Security Service (November); in Europe with a South Sudanese individual who was subsequently released (September); in Nairobi with an individual who escaped (September); with a former National Security Service officer in Khartoum (July); with a senior SPLA officer (October); with former politician P in Juba (November); and with a Western diplomat in Juba (November). For public sources, see the following by Radio Tamazuj: "Prisoners: SPLA holding dozens of its own officers in 'inhumane' conditions", 1 December 2015, available from https://radiotamazuj.org/en/article/prisoners-spla-holding-dozens-its-own-officers-inhumane-conditions; "Military intelligence agents arrest two people in Wau town", 4 November 2015, available from https://radiotamazuj.org/en/article/military-intelligence-agents-arrest-two-people-wau-town; "Four abducted United Nations staff still held in South Sudan", 23 October 2014, available from https://radiotamazuj.org/en/article/four-abducted-un-staff-still-held-south-sudan. See also Jason Patinkin, "Radio-silenced in the world's newest country", *Foreign Policy*, 26 August 2015, available from http://foreignpolicy.com/2015/08/26/radio-silenced-in-the-worlds-newest-country-press-freedom-south-sudan/.

[152] Panel interview in Pagak with a former National Security Service member who admitted to the use of torture to extract confessions; two individuals held by the National Security Service (November); a South Sudanese individual in Europe, who was subsequently released (September); an individual in Nairobi who escaped (September); high-ranking SPLA officer A in Juba (October); and former politician Q in Juba (November).

[153] Confidential documentation seen by the Panel in Juba (October). This is in line with a practice described to the Panel by a victim during a confidential interview in Nairobi (September).

[154] Photographs of the group in training seen by the Panel (on file), interview with a former National Security Service member in Pagak (November), a high-ranking SPLA officer in Juba (September) and a former politician in Juba (November).

[155] Panel interviews in Juba with two individuals held by the National Security Service (November); in Europe with a South Sudanese individual who was subsequently released (September); with former politicians P and Q in Juba (October and November); and with civil society activist L in Nairobi (November).

the beginning of the conflict because it has acquired additional communications interception equipment from Israel.[156]

VIII. Obstruction of and attacks against humanitarian and peacekeeping missions

135. In paragraphs 7 (f) and (g) of resolution 2206 (2015), the Security Council defined actions or policies that threatened the peace, security and stability of South Sudan as, among other things, the obstruction of the activities of international peacekeeping, diplomatic or humanitarian missions in South Sudan, including the IGAD Monitoring and Verification Mechanism or of the delivery or distribution of, or access to, humanitarian assistance, and attacks against United Nations missions, international security presences or other peacekeeping operations or humanitarian personnel.

136. In its interim report, the Panel presented evidence of acts amounting to obstruction of humanitarian assistance and attacks against humanitarian workers and UNMISS personnel. On the basis of site visits and interviews with multiple, independent sources with first-hand knowledge, supplemented by a thorough review of documentation, the Panel has determined that, notwithstanding the signing of the peace agreement in August 2015, the obstruction of humanitarian assistance and attacks against humanitarian workers and peacekeeping personnel have continued unabated.

A. Obstruction of humanitarian assistance and attacks against humanitarian workers

137. As at mid-December 2015, at least 43 humanitarian workers had been killed since the beginning of the conflict, in December 2013,[157] an increase of more than 25 per cent in the four months since the Panel's interim report. The Panel also received numerous reports of abduction, harassment, assault, forcible recruitment of national staff, extrajudicial detention and sexual violence against humanitarian workers, sometimes even targeting senior United Nations humanitarian officials.[158]

138. According to the Office for the Coordination of Humanitarian Affairs, humanitarian actors reported 78 access-related incidents in October 2015 alone, mainly pertaining to violence against humanitarian personnel and active hostilities and insecurity. The actors reported the deaths of three humanitarian staff (all in Unity State), six armed attacks, 32 attempted or completed lootings or robberies

[156] Panel meeting with representatives of the Government of Israel in Jerusalem (October), two separate diplomatic representatives in Juba (July and September) and a senior SPLA officer in Juba (September).

[157] Panel correspondence with the Office for the Coordination of Humanitarian Affairs in Juba (December).

[158] Panel interviews with UNMISS, humanitarian actors and researchers in Juba (July, August, October, November).

(including 15 in Juba) and five cases of arrest and detention. Most of the incidents occurred in Central Equatoria (25), Unity (16) and Western Equatoria (10) States. In Lakes State, humanitarian actors reported seven incidents.[159]

139. With the exception of a dramatic spike in access-related incidents (to 134) in May when the Government launched the military offensive in Unity State (as noted in the Panel's interim report), the number of such incidents has remained consistent over the past 18 months of the war, with humanitarian agencies reporting 78 incidents in May 2014 and the same number in November 2015. The Panel concludes that obstruction of humanitarian access has continued unabated.[160] In addition, negotiations over access have become increasingly complex and challenging for humanitarian actors in recent months as they are forced to negotiate with local officials and armed groups in each county, whether they belong to SPLA, SPLM/A in Opposition or other armed actors, to receive the required safety assurances.[161]

Unity State

140. Humanitarian actors operating in Unity State told the Panel that there had been no improvement in security in order to gain access to people in need since the signing of the peace agreement in August 2015, as a direct result of the continuing offensive by SPLA and government-supported militias. On 2 and 3 October, the Médecins sans frontières and International Committee of the Red Cross compounds in Leer were both looted twice. Consequently, both organizations were forced to suspend medical activities and evacuate their teams from Leer.[162] On 1 December 2015, some aid workers deployed back to the towns of Leer and Thonyor to re-establish humanitarian operations and deliver relief to people in need who had been cut off from assistance since October.[163] The Panel assesses, however, that that tentative return does not

[159] See Office for the Coordination of Humanitarian Affairs, "South Sudan: humanitarian access situation snapshot — October 2015". Available from http://reliefweb.int/sites/reliefweb.int/files/resources/access_snapshot_20151113.pdf.

[160] It should be noted that these reports represent only a fraction of the actual incidents occurring, given that many humanitarian actors choose not to report access-related incidents owing to concerns about the safety of their beneficiaries and their staff. See also South Sudan NGO Forum, "NGOs concerned about deteriorating security situation in Juba", 16 September 2015, available from http://info.southsudanngoforum.org/dataset/33aeeaa8-b96f-4b4b-afd5-1cc7af86ab4b/resource/1f725b54-d7a7-42cc-b646-612dc98b7864/download/ngoforumstatementjubacompoundrobberies16092015.pdf; Office for the Coordination of Humanitarian Affairs, "South Sudan: humanitarian coordinator strongly condemns armed robbery of Nile Hope compound in Juba", 23 November 2015, available from http://reliefweb.int/sites/reliefweb.int/files/resources/20151123_SS_PressRelease_HC_strongly_condemns_armed_robbery_of_Nile_Hope_compound_in_Juba.pdf; Richard Nield, "South Sudan: the many barriers to aid", Al-Jazeera, 15 December 2015, available from www.aljazeera.com/indepth/features/2015/12/south-sudan-barriers-aid-151205114959758.html.

[161] Interviews with multiple independent humanitarian actors and UNMISS in Juba (July, August, October and November).

[162] See Médecins sans frontières, "South Sudan: no medical assistance available in Leer, following repeated lootings of Médecins sans frontières facility", 6 October 2015, available from www.msf.org/article/south-sudan-no-medical-assistance-available-leer-following-repeated-lootings-msf-facility; ICRC, "South Sudan: ICRC forced to withdraw from Leer County following threats and looting", 5 October 2015, available from www.icrc.org/en/document/south-sudan-conflict-leer-looting-icrc-forced-withdrawal.

[163] See Office for the Coordination of Humanitarian Affairs, *Humanitarian Bulletin: South Sudan* (1 December 2015), and Panel's correspondence with an official from the Office.

amount to the indication of a positive trend, and humanitarian workers have expressed concern about the possibility of maintaining the presence for a sustained period.

Western Equatoria State

141. As indicated above, humanitarian access has been problematic in parts of Western Equatoria State. Access to Mundri West and East and Maridi counties in particular has been difficult since May 2015 owing to continuing insecurity and fighting. During an inter-agency United Nations assessment mission to Mundri West and East counties from 27 to 30 October, humanitarian actors reported that movement of humanitarian staff and supplies was at high risk and could be carried out only with the use of UNMISS armed escorts. This often proved difficult, however, given that UNMISS had only limited troops and logistics in place at the time. Given the insecurity, internally displaced persons often hid in hard-to-reach areas outside towns, making access even more challenging.[164]

Upper Nile State: denial of humanitarian access

When the Government launched its offensive in Upper Nile State early in April, the large internally displaced persons settlement at Wau Shilluk, on the west bank of the Nile, home to 38,500 internally displaced persons at the time, became inaccessible to humanitarian actors owing to the fighting. Consequently, the settlement no longer had access to water, food or medical services. Given the resulting food scarcity, many Shilluk made the perilous journey to the United Nations site for the protection of civilians in Malakal to search for food.

After fighting subsided in June, SPLA refused to provide safety assurances to UNMISS and humanitarian actors for boat travel from Malakal to Wau Shilluk to deliver emergency assistance. In addition, it refused to allow internally displaced Shilluk to return home to their children, whom they had left to seek food.

In July and August, SPLA enforced restrictions on United Nations boats travelling from Malakal to Wau Shilluk and regularly denied flight safety assurances for United Nations aeroplanes into Malakal airport from Juba, thereby cutting off the only supply line for essential foodstuffs and medicine to the site for the protection of civilians and surrounding areas in Upper Nile State. The result was an enormous influx of internally displaced persons into the site — 16,000 new internally displaced persons arrived between mid-July and mid-August 2015.

[164] See the initial rapid needs assessment on Mundri East and West counties, Western Equatoria State, covering the period from 27 to 30 October 2015.

On 10 August, SPLA belatedly permitted United Nations flights to resume to and from the airport. Shortly thereafter, a number of high-level United Nations and donor officials were threatened by the SPLA division commander in Malakal, who said that he would fire on any humanitarian workers or UNMISS personnel attempting to cross the river, including those carrying humanitarian supplies into Wau Shilluk, if the workers and personnel did not obtain clearance for passage directly from Paul Malong.[a] On 26 August, the Government in Juba allowed the United Nations to resume limited flights from Juba into Wau Shilluk to provide urgent humanitarian assistance. During this period, the population in the site for the protection of civilians rose from some 13,000 in March to more than 46,500 in mid-August, although the site had initially been designed to accommodate just 18,000 people.[b]

[a] Interviews in Juba (August and October) with four sources, including United Nations, donor and humanitarian officials who were present in Malakal as part of the visit.

[b] See Office for the Coordination of Humanitarian Affairs, *Humanitarian Bulletin: South Sudan — Bi-weekly Update* (13 August 2015), available from https://docs.unocha.org/sites/dms/SouthSudan/2015_SouthSudan/South_Sudan_13_August_2015_Humanitarian_Bulletin_1.pdf. See also documentation provided by UNMISS in Malakal.

B. Attacks on the United Nations Mission in South Sudan

142. UNMISS personnel are regularly attacked, harassed, detained, intimidated and threatened. According to the Mission, between the adoption of resolution 2206 (2015), in March, and 30 November, the Government committed at least 450 violations of the status-of-forces agreement, including the assault, arrest and detention of United Nations personnel and restrictions on the movement of peacekeeping patrols and other UNMISS operations; the opposition and other anti-government groups committed several dozen more equivalent acts.[165] The cumulative effect of this relentless obstruction has been devastating for the Mission's operating environment and its ability to execute its mandate to protect civilians under Chapter VII of the Charter of the United Nations.

IX. Implementation of the travel ban and asset freeze

143. Two SPLM/A in Opposition commanders, James Koang and Simon Gatwech, both of whom the Committee listed on 1 July, admitted to the Panel in November that they had violated the travel ban by boarding flights to Addis Ababa to participate in the workshops on the transitional security arrangements in October and November. Both also told the Panel that they did not commit the acts leading to their designation and claimed there had been no outreach to them by Security Council members to explain the sanctions or the rationale for their designation.

144. The Panel has confirmed at first hand that Peter Gadet has visited the Sudan on multiple occasions since the Committee listed him on 1 July.

[165] Documentation provided by UNMISS and analysed by and on file with the Panel.

145. The Panel obtained documentation indicating that Major General Marial Chanuong Yol Mangok and Lieutenant General Gabriel Jok Riak were still operating active bank accounts at the Kenya Commercial Bank in South Sudan in the late summer of 2015.[166]

X. Recommendations

146. The Panel recommends:

(a) That, to achieve the Security Council's stated objectives in resolution 2206 (2015), namely an inclusive and sustainable peace in South Sudan, the Committee designate high-level decision makers responsible for the actions and policies that threaten the peace, security and stability of the country, as defined in paragraphs 6 and 7 of the resolution, including those who are responsible for serious crimes under international humanitarian and international human rights law and who have the power and influence either to perpetuate or end the war. The Panel intends to provide a confidential annex to the Committee with the names of such individuals in January 2016;

(b) That, to prevent the further destabilization of the security situation in South Sudan and in particular the continuing large-scale human rights violations that the Panel has determined are directly related to the supply of arms and ammunition to non-State actors and groups by all sides, as well as to prevent the further transfer or use of heavy equipment, the Security Council impose an embargo on the supply, sale or transfer to South Sudan, from or through the territories or by the nationals of all Member States, or using their flag vessels or aircraft, of arms and related materiel of all types, including weapons and ammunition, military vehicles and equipment, paramilitary equipment and spare parts for the aforementioned, and technical assistance, training, financial or other assistance relating to military activities or the provision, maintenance or use of any arms and related materiel, including the provision of any form of training by foreign forces or armed mercenary personnel whether or not originating in their territories. The Panel further maintains its recommendations for the modalities for the implementation of such an embargo as outlined in paragraphs 84 (d), (e) and (g) of its interim report;

(c) That the Committee call upon companies engaged in business activities in South Sudan, especially in the oil and natural resource sectors, to adhere to the principles of the Extractive Industries Transparency Initiative[167] and to abide by the due diligence guidelines established by the Organization for Economic Cooperation and Development[168] in order to reinforce the implementation of the provisions of

[166] Confidential documentation on file with the Panel.

[167] See Sam Bartlett and Dyveke Rogan, eds., *The Extractive Industries Transparency Initiative Standard* (Oslo, Extractive Industries Transparency Initiative Standard secretariat, 2015). Available from https://eiti.org/files/English_EITI_STANDARD.pdf.

[168] The Organization for Economic Cooperation and Development provides a five-step framework towards a conflict-free mineral supply chain: establish strong company management systems, identify and assess risk in the supply chain, design and implement a strategy to respond to identified risks, carry out independent third-party audit of supply chain due diligence at identified points in the supply chain, and report on supply chain due diligence. See OECD, *OECD Due Diligence Guidance for Responsible Supply Chains of Minerals from Conflict-Affected and High-Risk Areas*, 2nd ed. (Paris, 2013). Available from www.oecd.org/corporate/mne/GuidanceEdition2.pdf.

chapter IV of the Agreement on the Resolution of the Conflict in the Republic of South Sudan, in particular those provisions regarding transparency;

(d) That, given the widespread nature of the use of children and of conflict-related sexual violence in the war, the Committee encourage all relevant United Nations agencies to continue monitoring and reporting on those practices. Furthermore, the Panel recommends that the Committee encourage all humanitarian actors participating in the Monitoring and Reporting Mechanism and the Gender-based Violence Information Management System in South Sudan to collaborate with the Panel in order to identify perpetrators of violations of human rights and international humanitarian law, including those involved in the use of children in armed conflict and in conflict-related sexual violence, and whose acts, on the basis of the Panel's independent and confidential investigations, could be proposed for sanctioning in line with the designation criteria set out in paragraph 7 of resolution 2206 (2015).

Annex I

Table of correspondences sent and received by the Panel from 18 May to 14 December 2015

Country other entity	*Number of letters sent*	*Requested information fully supplied*	*Requested information partially supplied*	*No answer*	*Pending*
South Sudan	10	8		2	
SPLM/IO	2			2	
Ethiopia	1	1			
UNOAU	1	1			
Uganda	5	3		2	
Sudan	4	4			
AU	1			1	
Israel	2	2			
China	3			3	
Eritrea	2	2			
Egypt	2	1		1	
Streit Group FZCO	1			1	
Russian Federation	1			1	
Armenia	1	1			
Ukraine	3	1	1	1	
Tajikistan	1			1	
Belarus	3	2			1
South Africa	2			2	
UK	1			1	
UAE	1			1	
Golden Wings Aviation	2	2			
Reliable Unique Services Aviation	1			1	
Roland Aviation	1			1	
Asteri Capital Ltd.	1	1			

Country/other entity	*Number of letters sent*	*Requested information fully supplied*	*Information partially supplied*	*No answer*	*Pending*
Trafigura	1				
IGAD	1	1			
Combined Systems	1	1			
Citibank	1			1	
Nebo Ukrainy	1			1	
Kazakhstan	1			1	
Air Armenia	1			1	
Trafigura	1			1	
PETRONAS	1			1	
CNPC	1			1	

Annex II

Destruction of Shilluk areas of Upper Nile State

Imagery source: World View 2 copyright DG, under next view licence
Acquisition date: 25 August 2015

United Nations
Department of Field Support
ICTD – Geospatial Information Section

Observed destruction in communities on the west bank of White Nile river, Malakal vicinity

Malakal County
Upper Nile State
South Sudan

29 September 2015

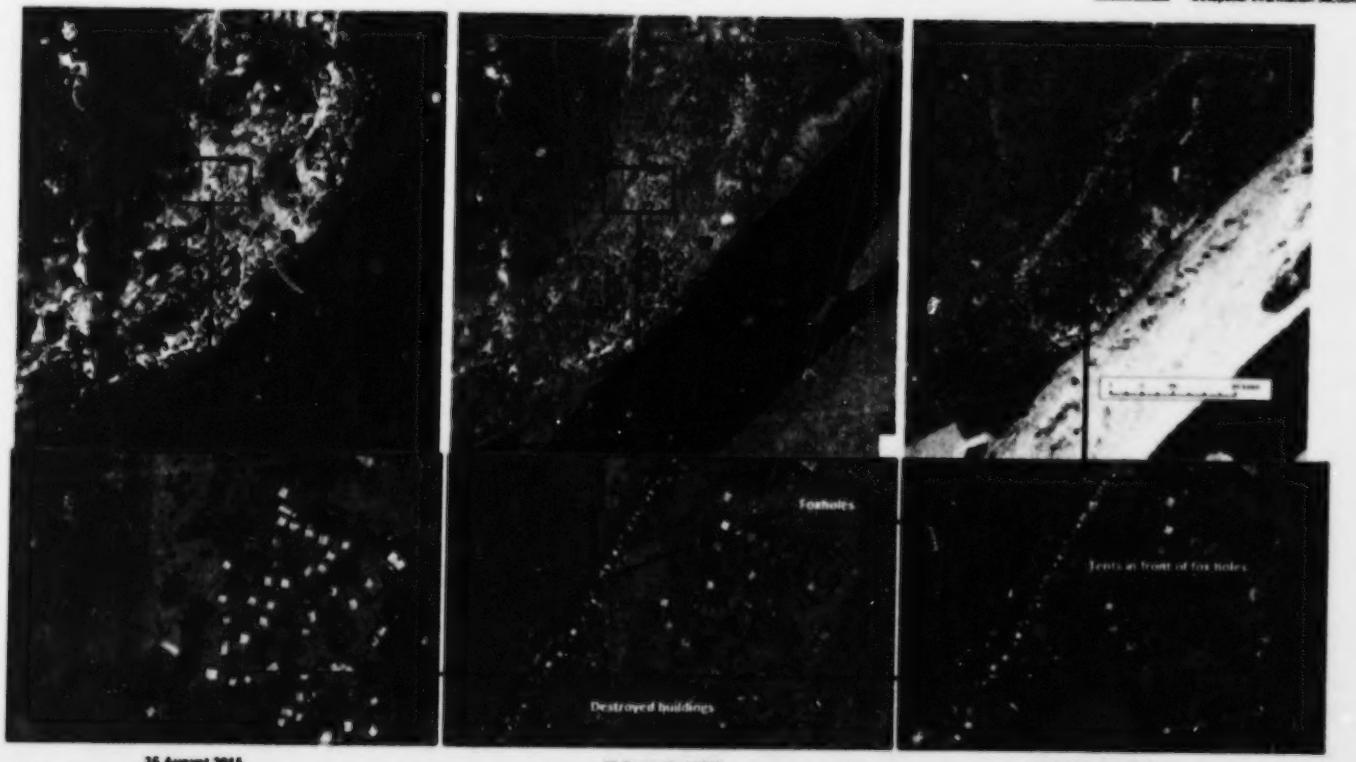
MAIN OBSERVATIONS

Widespread destructions in four communities have been identified in the west bank of White Nile river in the vicinity of Malakal town.

- Community A (31°37'52"E 09°31'22"N)
- Community B (31°38'06"E 09°30'42"N)
- Community C (31°37'49"E 09°31'31"N)
- Community D (31°38'25"E 09°34'03"N)

Observed destruction in community A. West bank of While Nile River, Malakal vicinity

United Nations
DFS, ICTD
Geospatial Information Section



25 August 2015 **15 September 2015** **25 September 2015**

At the location (31°37'52"E 09°31'22"N) (across the river from Malakal) on the west bank of White Nile river, widespread destructions in a community has taken place in-between 25 August and 15 September 2015. It has been estimated that approximately 350 buildings and other constructions have been destroyed and approximately 10 buildings and other constructions have been partially destroyed (see next page for detail image). During the same period of time a line of foxholes has been constructed facing north-west. In addition, a line of temporary constructions (possibly tents) has been installed in front of the foxhole line.

Image source: World View 3 copyright DG (Acquisition Date 2015-08-25 08:41 UTC), World View 1 copyright DG (Acquisition Date 2015-08-15 10:05 UTC), World View 3 copyright DG (Acquisition Date 2015-09-25 08:35 UTC).

Observed destruction in community A. West bank of White Nile River. Malakal vicinity (detailed image)

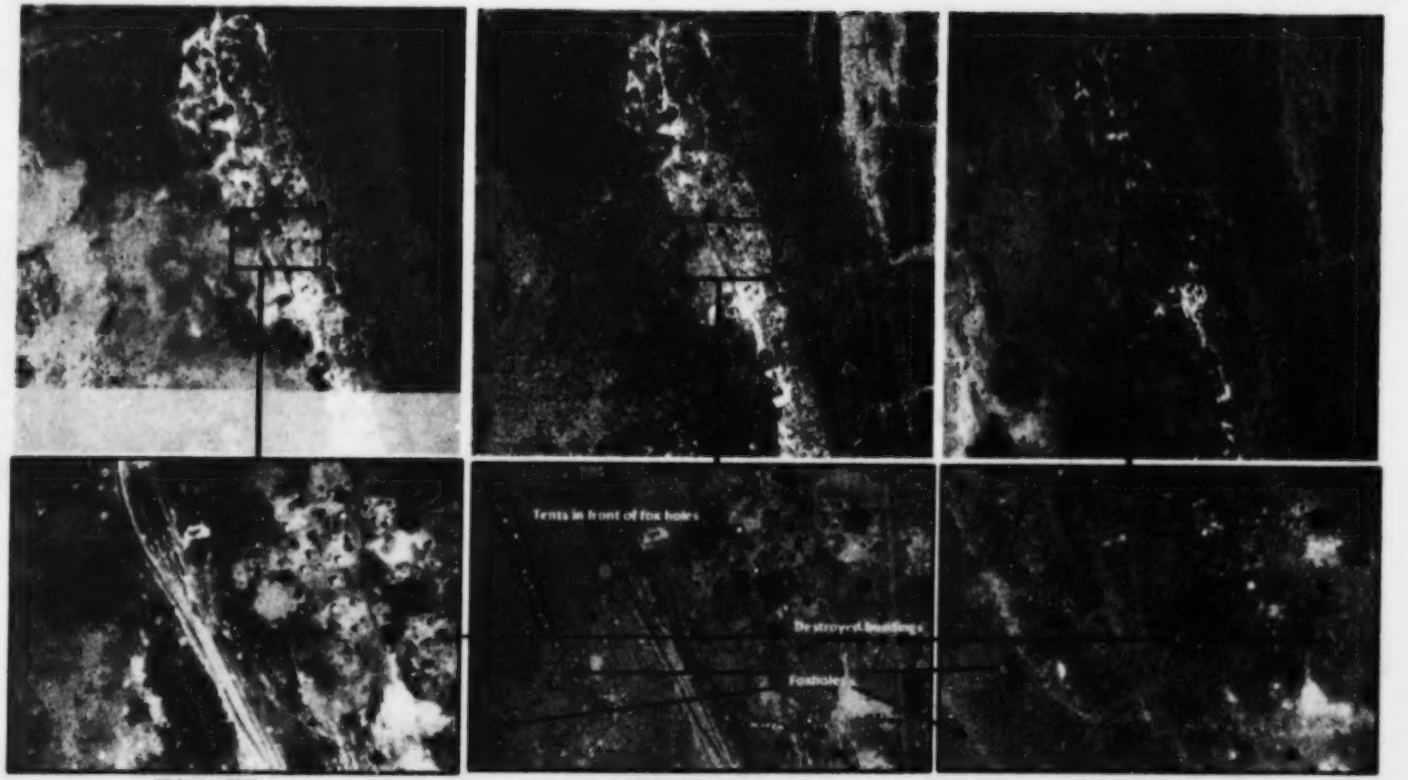
DPS, ICTD
Geospatial Information Section

Imagery source: World View 3 copyright DG (Acquisition Date 2015-08-25 08:35 UTC).

Page 3

Observed destructions in community B. West bank of White Nile River, Malakal vicinity

DPS, ICTD
Geospatial Information Section

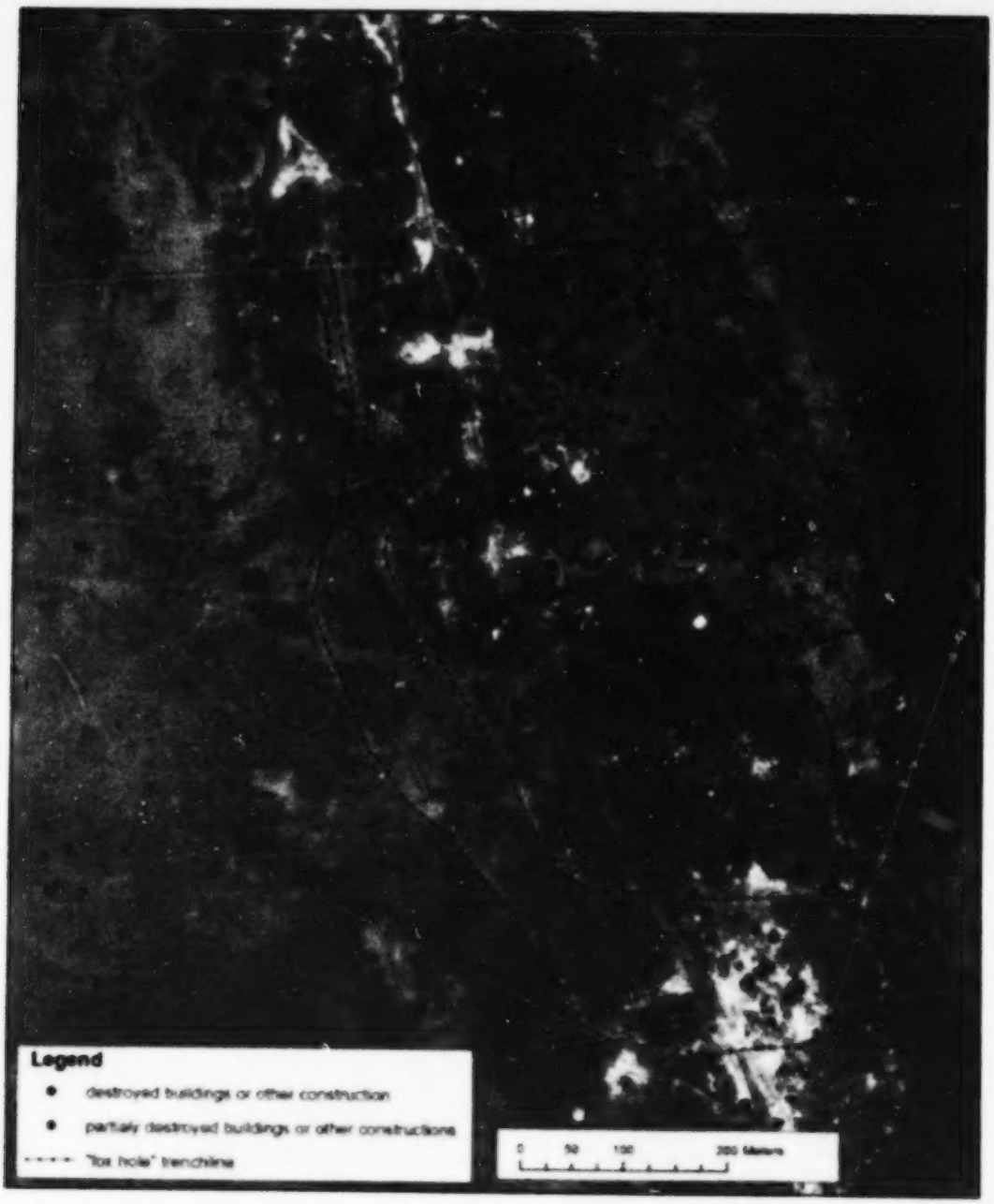


25 August 2015 | 15 September 2015 | 25 September 2015

At the location (31°38'06"E 09°30'42"N) (across the river from Malakal) on the west bank of White Nile river, widespread destructions in a community has taken place in-between 25 August, 15 September and 25 September 2015. It has been estimated that approximately 18 buildings and other constructions have been destroyed and approximately 16 buildings and other constructions have been partially destroyed (see next page for detail image). During the same period, two perimeters of foxhole lines have been constructed facing west. In addition, a line of temporary constructions (possibly tents) has been installed in front of internal foxhole line in between 25 August and 15 September 2015.

Imagery source: World View 3 copyright DG (Acquisition Date 2015-08-25 08:41 UTC); World View 3 copyright DG (Acquisition Date 2015-08-15 10:05 UTC); World View 3 copyright DG (Acquisition Date 2015-09-25 08:35 UTC);

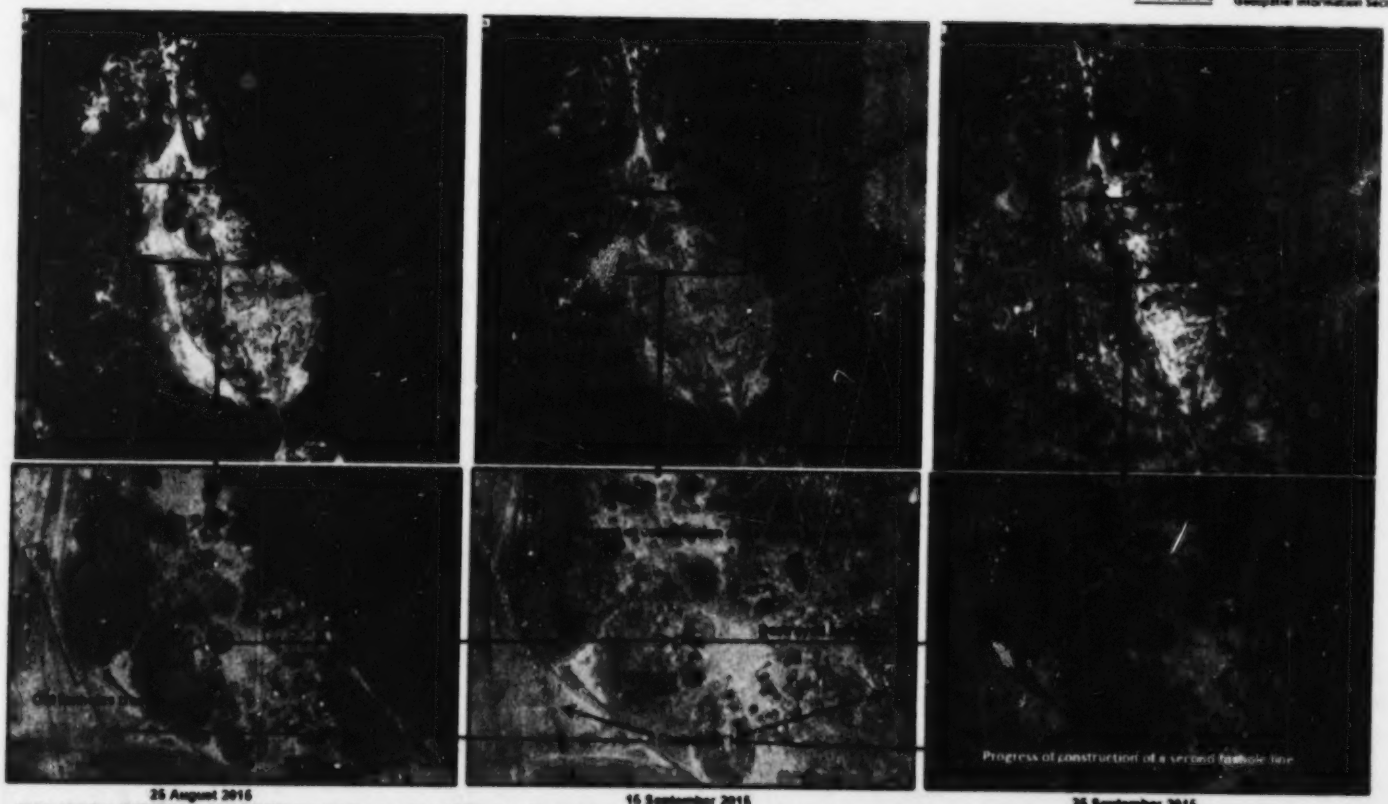
Observed destructions in community B. West bank of White Nile River, Malakal vicinity (detailed image)


Legend
destroyed buildings or other construction
partially destroyed buildings or other constructions
"fox hole" trenchline
0 50 100 200 Meters

Page 5 of 9

Observed destructions in community C. West bank of While Nile River, Malakal vicinity

United Nations DPS, ICTD Geospatial Information Section



25 August 2015 | 15 September 2015 | 25 September 2015

At the location (31°37'49"E 09°31'31"N) (across the river from Malakal) on the west bank of White Nile river, widespread destructions in a community has taken place between 25 August, 15 September 2015. However the destruction in this community is less severe than in the Community A. It has been estimated that approximately 37 buildings and other constructions have been destroyed and approximately 39 buildings and other constructions have been partially destroyed (see next page for detail picture). The first line of foxholes was constructed between June and November 2014. The construction of the second line began between 25 August and 15 September 2015. Foxhole lines surround community C.

Imagery source: World View 3 copyright DG (Acquisition Date 2015-08-25 08:41 UTC) ; World View 1 copyright DG (Acquisition Date 2015-08-15 10:05 UTC) ; World View 3 copyright DG (Acquisition Date 2015-09-25 08:35 UTC) ;

Observed destructions in community C. West bank of While Nile River. Malakal vicinity (detailed image)

DPS, ICTD
Geospatial Information Section

Imagery source: World View 3 copyright DG (Acquisition Date 2015-08-25 08:35 UTC).

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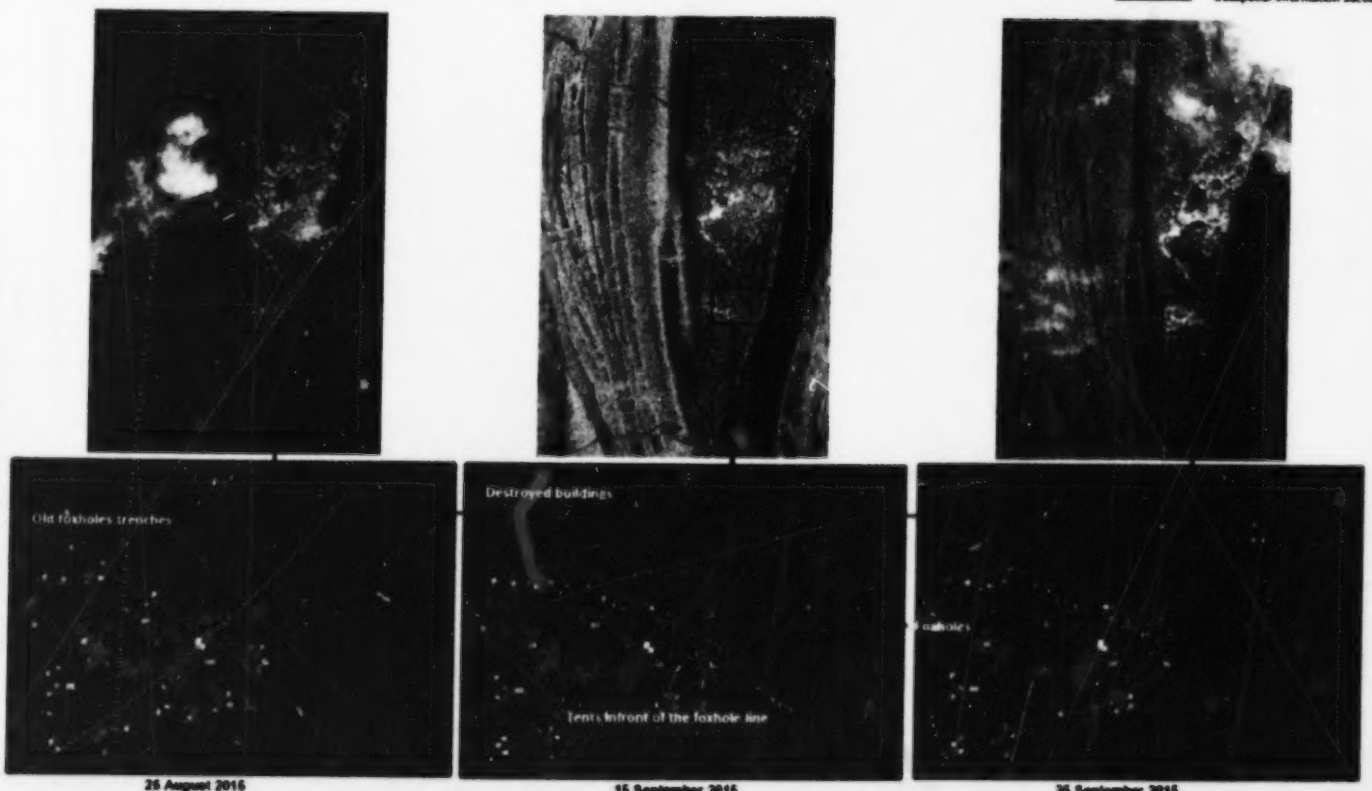
Observed destruction in community D. Island on White Nile River, Malakal vicinity

DFS, ICTD
Geospatial Information Section



At the location (31°38'25"E 09°34'03"N) on an island on White Nile river (in the vicinity of Malakal), widespread destruction in a community has taken place between 25 August, 15 September 2015. However, the destruction in this community is less severe than in the Community A. It has been estimated that approximately 15 buildings and other constructions have been destroyed and approximately 33 buildings and other constructions have been partially destroyed (see next page for detail image). During the same period of time, a line of foxholes was constructed facing north-west.

Imagery source: World View 3 copyright DG (Acquisition Date 2015-08-25 08:41 UTC) ; World View 1 copyright DG (Acquisition Date 2015-08-15 10:05 UTC) ; World View 3 copyright DG (Acquisition Date 2015-09-25 08:33 UTC) .

Observed destruction in community D. Island on While Nile River, Malakal vicinity (detailed image)

DPS, ICTD
Geospatial Information Section

Imagery source: World View 3 copyright DG (Acquisition Date 2015-09-25 08:35 UTC).

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Annex III

Comparison of Ilyushin-76

Comparison of an Il-76, registration ST-ALF witnessed in Khartoum and Juba (above) and the Il-76 used by the Government of South Sudan to transport troops and ammunition to Upper Nile State (below)

Annex IV

Letters of credit scheme

While the plundering of national resources in South Sudan is not new, the on-going war has predisposed the country to further economic predation and exploitation. One key example of this dynamic is the letters of credit "scheme" (LC), which, while it began in 2012, has persisted because of the worsening economic conditions associated with the war.[a] This scheme is indicative of the opportunities for profiteering that have emerged in the course of the war.

Under the letters of credit scheme, companies apply for allocations of dollars from the Central Bank to enable them to import specified goods into the country to be sold at subsidised rates. However, instead of actual importation of goods as required, some of the companies only present proof of importation for the release of the money to them and then sell the dollars on the black market for as much as five times the official exchange rate.[b]

Government oversight structures estimate that approximately US$ 1 billion has been mismanaged under the scheme since 2012.[c] This has contributed to a culture of corruption with impunity in the non-delivery of government-funded goods and services. Companies that care to deliver do not sell the goods at the subsidised rate required by the scheme.

To be able to understand the extent of exploitation of the scheme as a dimension of the underlying interests within which the war is situated, the Panel did an ownership analysis of 10 selected defaulters[d] of the letters of credit scheme. As a result, the Panel concluded that powerful individuals in the SPLM and SPLA intimidate government committees to secure allocations to companies aligned to them. Since the institution of the scheme, hundreds of companies have benefited. Many of these are briefcase entities created to exploit government schemes.[e]

The Panel's assessment of the ownership of the 10 companies shows ownership was mixed between South Sudanese and foreigners. Share allocations show clear imbalances indicating that in some cases South Sudanese shareholders were merely brought on-board to front their foreign partners, who themselves have deeper connections to the heart of political and economic power in the country. The ability of such foreign-run companies to exploit a government scheme is a testament to the extent to which their activities benefit top politicians and army generals.

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[a] The Panel relied on a variety of independent sources to document the letters of credit scheme.

[b] The scheme depended on a disparity in the official exchange rate of 2.96 SSP to the dollar when the black market exchange rate could run as high as 18 SSP. On 14 December 2015, however, the Central Bank decided to float the SSP, in effect unifying what had been a dual exchange rate.

[c] Confidential government reports obtained by the Panel.

[d] The 10 cases were selected based on the amounts they have accessed since the scheme began.

[e] The Panel has provided additional information on these cases to the Committee.

Annex V

Cattle as war currency

The war in South Sudan is partly sustained through looting of equipment in lieu of cash spending and bartering of cattle. Cattle are not only a prime source of livelihood in South Sudan but also an important store of wealth and social status.

Unity state has seen massive movement of cattle within its nine counties since the war began. The Panel found that two main factors led to this movement. The first is wilful mobility by cattle owners fleeing the conflict towards safe areas. This was the case with the many who responded to the government's call for cattle owners to bring their cattle to Rubkona and Bentiu for safekeeping in June.[f] Some people in the IDP camps responded to this call and moved their cattle to Bentiu and Rubkona while they sought shelter at the UNMISS PoC site. A number of these cattle were looted.[g]

An estimated 150,000 cattle were in Rubkona in June 2015. People in Guit, Koch and Rubkona who did not bring their cattle under local control were considered opposition elements and were subsequently raided by the Bul Nuer youth as part of the southern Unity offensive. Raiding has been a central aspect of recruitments of allied forces for offensives, and youth who were operating alongside government forces were permitted to raid as a means of ensuring their loyalty.[h] Refusal to participate in the offensive was considered by government forces as colluding with the SPLM/A in Opposition and exposed one's herd to raiding by others. Many youth therefore joined the raids in the name of protecting their cows.[i]

In October 2015, Unity state local government officials confirmed to the Panel that the highest concentration of cattle was in Mayom, Rubkona, Koch, Panyigar, Mayendit, Leer and Abiemnom. This confirmed the direction of flow of raided cattle towards Mayom, Rubkona and Koch from the southern counties that were targeted in the government offensive.

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[f] Several individuals in Unity state, including local government officials, told the Panel that Bentiu FM broadcast these announcements for about two weeks before the offensive began.

[g] Interviews with multiple humanitarian workers, local people, IGAD MVM and peacekeepers, Bentiu, October 2015.

[h] At the time of the Panel's visit to Rubkona in October 2015, several thousand cattle were observed in Rubkona and Bentiu. Discussions with local government officials and *UN*MISS peacekeepers confirmed the use of Bentiu as the nerve centre for decision-making on cattle movements in and out of the state in the midst of the war.

[i] Interviews with local community, multiple humanitarian workers, the MVM, and UNMISS in Bentiu, October 2015.

Annex VI

Major General Johnson Olony and child recruitment

The Panel received a particularly high number of reports of Maj. Gen. Olony's recruitment and use of children, both during his time allied to the SPLA and after his defection to the SPLM/A in Opposition in May 2015.

In February 2015, the IGAD MVM reported that Olony and his Shilluk militia were responsible for the forced recruitment of a number of child soldiers in Wau Shilluk, Upper Nile state.[j] When Olony switched his allegiance to the SPLM/A in Opposition in May 2015, the MVM once again reported that his forces carried out forcible recruitment of an estimated 500-1000 youth, many of whom were children aged between 13 and 17 years. This recruitment took place 7-9 June 2015, during house-to-house searches in the villages of Kodok and Wau Shilluk.[k]

The Panel learned of one incident involving three children aged 10, 14, and 15, who allegedly escaped from Olony's forces.[l] The children were part of group of around 900 people forcibly recruited from Malakal town on a single day in November 2014 by Olony's Agwelek militia. As the three children struggled to carry guns, they were taken to Nyijuat to fish and grow crops for the troops. When they complained about having to stand in the sun for hours to fish, they were told that they were soldiers and were expected to act as professionals. If the children failed to comply, they were beaten. The children were separated from their families and were not allowed any form of communication with their parents. The children witnessed new forced recruits arriving on a daily basis, including many other children that from November 2014 until late April 2015.[m]

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[j] Summary of Latest Reports of Violations of the Cessation of Hostilities Agreement (COHA) of 23 January 2014 Investigated and verified by the IGAD Monitoring and Verification Mechanism in South Sudan; From 31 January – 28 February 2015, Violation 31, available at http://southsudan.igad.int/index.php/2014-08-07-10-16-26/2014-08-07-10-30-57?start=5; accessed on 28 June. And Radio Tamazuj on UNICEF reporting on children recruited at https://radiotamazuj.org/en/article/spla-commander-'summoned'-over-child-abductions-never-shows-juba.

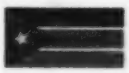
[k] Summary of Latest Reports of Violations of the Cessation of Hostilities Agreement (COHA) of 23 January 2014 Investigated and verified by the IGAD Monitoring and Verification Mechanism in South Sudan; From 28 May 2015 – 9 June 2015, Violation 42; available at http://southsudan.igad.int/index.php/2014-08-07-10-16-26/2014-08-07-10-30-57?start=5; accessed on 28 June. On child recruitment by Maj. Gen. Olony, see also Human Rights Watch, "We can die too", report on recruitment and use of child soldiers in South Sudan, available at https://www.hrw.org/news/2015/12/14/south-sudan-terrifying-lives-child-soldiers; accessed on 15 December 2015.

[l] Confidential source. Notes on file with the Panel.

[m] The three children ultimately managed to escape to the Malakal PoC site. One of the children was reunited with his mother, who told the Panel how she had met with Olony in November 2014 to ask for the release of her children. (All of her sons are underage, and all were forcibly recruited. Two of them are still missing and believed to be with Olony's forces.)

Annex VII

Response from SPLM/A in Opposition to the letter of the Panel dated 10 December 2015



SUDAN PEOPLES' LIBERATION MOVEMENT/ARMY

CHAIRMAN & COMMANDER-IN-CHIEF

Response to the letter of the Committee of UN Experts on South Sudan

The SPLM/A-IO welcomes the Committee of UN Panel of Experts to South Sudan and appreciates its continued presence, hard work and commitment to ensure justice and accountability in South Sudan Conflict are upheld. The SPLM/A-IO thanks the committee for compiling this report and giving us an opportunity to review, comment and response to the allegations against the SPLM/A-IO. The SPLM/A-IO welcomes the committee's report. Reference to your letter (Ref: S/AC.57/2015/PE/OC.61) dated 10 December 2015, the SPLM/A-IO response is as follows:

- **Chairman Riek Machar maintains command responsibility for the SPLM/A-IO and therefore bears responsibility for the actions and policies of the SPLM/A-IO.**

To fully respond to this bulleted point, it is important to revisit the genesis of South Sudan Conflict. The crisis broke out in December 15, 2013 in the capital Juba and the government forces ran amok as of morning December 16, 2015 for over a week committing massacres, crimes against humanity, war crimes targeting one ethnic group, the Nuer. The country was immediately engulfed in chaos on the split of the army and the other organized forces. The SPLA, the Police, the Wildlife, the National Security Services, the Correctional Services and the Fire Brigade all split. The split was spontaneous. The Minster of Defense's own admission before the national Legislature in January 2014 was that seventy percent of the armed forces rebelled. The government and Ugandan troops were on the offensive pursuing Dr Machar and others along the Juba – Bor road. The point here is that during that period there was no central command among the groups that took up arms to resist the regime. For several months, the focus and efforts were on establishing contacts and some kind of unified command among those forces. Finally in April 2014, in the Nasir Consultative Conference, the movement was formally established confirming an earlier decision in Gadiang to resist the ethnic cleansing and scorch earth policies of the regime. The consultative conference also confirmed me as Chairman and Commander in Chief of SPLM/SPLA-IO.

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- **The SPLM/A-IO has regularly violated the Permanent Ceasefire to which it committed under the August 2015 Agreement on the Resolution of the Conflict in South Sudan.**

The SPLM/SPLA-IO signed the Agreement on the Resolution of the Conflict in the Republic of South Sudan in August 17th 2015. President Salva on the other hand signed the Agreement nine days later on August 26th 2015. We are committed to the implementation of the agreement in letter and spirit including the Permanent Ceasefire. I immediately informed, in an all unit message, our forces that I had signed the agreement and to observe the ceasefire embodied in the agreement. Obviously they were instructed to respond only to aggression or in self- defense or in protection of civilians. The regime's forces continued to attack our positions despite the fact that they signed the agreement. On the eve of the signature of the agreement on 26 August 2015 by President Salva, the regime dispatched barges from Juba to attack SPLM/SPLA IO positions in Unity, Upper Nile and Jonglei States. On the western bank of Malakal town in Upper Nile the forces of the regime overran our locations of Lolo, Warjok, Detang and others. Even today the forces of the regime attacked our forces in Malakal Shilluk despite the fact that our advance team is now four days in Juba. The regime has continued to launch air raids to deny the SPLM/SPLA - IO from assembly and cantonment areas.

It must be recalled that two SPLM/SPLA - IO members of the MVM were apprehended by regime, while on duty, in Juba in the presence of UN personal and IGAD members of MVM in March 2014. After that incident, we could not maintain any more our presence in the MVM since the UN was unable to provide protection as stipulated in the CDH agreement signed in January 23rd, 2014. Hence, the MVM reports are one sided and we have always rejected them because they are not inclusive of all stakeholders.

In Unity State, Bentiu, the regime continues its policy of ethnic cleansing. To date, regimes' forces are hunting down unarmed civilians in swamps in viouation of the international humanitarian and human right laws. It is to be noted that, the regime has been pushing for control of more areas of SPLM/A-IO; hence, if you were to map the areas controlled by SPLM/A-IO as of January 23rd, 2014 and compare it with the current areas the SPLM/SPLA controls, you will conclude without doute that the regime has been on the offensive as of January 23rd, January 2015. We have always been on the defensive protecting ourselves.

To date, the regime's forces continue to attack our areas in Western Equatoria, Unity State, Western Bahr El Ghazal, Upper Nile and Central and Eastern Equatoria using helicopter gunships.

- **The SPLM/A-IO has procured arms that have been used to violate international human rights law and international humanitarian law and to commit violations of the Permanent Ceasefire and the earlier 23 January 2014 Cessation of Hostilities Agreement.**

The SPLM/SPLA has no resources to procure arms. Most of the arms used by the SPLM/SPLA are the ones we had during the split or captured in battles.

- **The SPLM/A-IO has received ammunitions and arms from the Government of Sudan.**

In an effort to resist the Juba regime and its policy of ethnic cleansing, the SPLM/A-IO sought some support from friends not necessarily Government of Sudan for self-defense. You are aware that the regime invited the UPDF and the Sudan rebels to fight on their side from the first day of the crisis. It was clear that the regime was determined to fight a war of ethnic cleansing. We have averted revenge and ethnic war by creating a national movement, the SPLM/SPLA - IO.

The regime has continued the carnage in Unity State killing women, children, elderly and innocent citizens. The regime killed also thirty seven UN and other international organizations workers of Nuer nationality.

- **To date, the SPLM/A-IO has fully acted upon only two of the more than 15 benchmarks described in the 17 August 2015 Agreement. Instead, the SPLM/IO has contributed to the delay in implementation of the agreement, including the significant delay in preparations for the establishment of the Transitional Government of National Monitoring and Evaluation Commission (JMEC) in Juba.**

The SPLM/A-IO is committed to the peace and resolving the South Sudan Conflict through peaceful means. I was the first to sign the agreement on 17 August 2015 ahead of President Salva Kiir. The SPLM/A-IO acknowledges that there have been difficulties that contributed to the implementation of the agreement.

The SPLM/A-IO participated in the first workshop on the Permanent Ceasefire and Transitional Security Arrangements. We agreed on a number of issues including disposition of forces, withdrawal routes, cantonment and assembly areas. The parties had different

understanding on the interpretation on some articles particularly on the security of Juba and other areas named in the agreement. It was unfortunate that the regime used the information we provided on the disposition of our forces to conduct air raids and ground attacks.

The second workshop on the unresolved issues on security arrangements and permanent ceasefire in November 2015 finally provided a way forward and the two parties reached an understanding on how to proceed with these unresolved issues.

The regime's belligerent violations undermined the process. President Salva Kiir continued to act as though there was no agreement. I reached out and requested to meet President Salva to address the following concerns before moving the implementation institutions to Juba:

1. Status of State of Emergency;
2. To agree on a public message as a way of kicking off reconciliation and to avoid clashing in public because President Salva Kiir continues to preach the narrative of coup d'état, which has been dismissed;
3. President Kiir unilateral declaration of 28 States a clear violation of the agreement. Today, he has effected the establishment of the 28 states by appointing 28 governors; and
4. The Status of the 'put to stay' case of treason against me and six others.

On the other hand, the SPLM/A-IO immediately put together its advanced team, but the regime delayed their arrival to Juba until 21 December 2015. The SPLM/A-IO welcomed the inauguration of the Joint Monitoring and Evaluation Commission (JMEC), JMCC, and NCAC. However, we are all shocked that the regime has continued its program of appointing governors for 28 states oblivious of the agreement. This act violates the agreement.

- **The SPLM/A-IO has recruited and used children in the armed conflict, up to and including the present day, in violation of applicable international humanitarian and human rights law.**

It is not SPLM/SPLA - IO policy to recruit children in the army. We are committed to the protection of children that is why I signed a declaration of commitment on Children in Armed Conflict on May 10th 2014 to ensure children are protected. The nature of the

current conflict presents very grave challenges with regard to the plight of children. Many children are separated from their families or lost their parents in the war as such become associated with SPLA-IO forces. Our commanders are under strict orders not to recruit children and to provide them necessary protection. The other challenge is that in some cultures adolescent boys are initiated to manhood, such children are regarded by their communities as adults and are encouraged to go to battle particularly with "white army" - local defense forces, despite the fact that the white army commanders are also instructed not to recruit children. However, the SPLM/SPLA can confidently say 'we do not have any children in our army'.

We are committed to work with UNICE, other international and national organizations to ensure that those children associated with the army are removed and reunited with their families. We have already developed and signed action plans with the UN.

Yours truly,

Riek Machar Teny-Dhurgon (PhD)

Chairman and Commander-in-Chief, SPLM/SPLA

24th December 2015.